

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.

* * * * *

(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.

* * * * *

Dated: December 20, 2002.

J. D. Hull,

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

[FR Doc. 03-1008 Filed 1-21-03; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01-02-132]

RM 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

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.

Vessels may transit through any portion of the LHG facility safety and security zones that extend into the navigable channel for the sole purpose of transiting through the safety and security zones so long as they remain within the navigable channel, maintain the maximum safe distance from the waterfront facility and do not stop or loiter within the safety and security zones.

The Captain of the Port will notify the maritime community of the periods during which the safety and security zones will be enforced by the methods identified in 33 CFR 165.7 including electronic mail broadcasts identifying "Designated Vessel" transit.

U.S. Coast Guard Cutters and Shore Facilities

The Coast Guard is establishing permanent safety and security zones within 100 yards of each moored, or anchored, Coast Guard Cutter operating within the New York Marine Inspection and Captain of the Port Zones. We also propose to establish a safety and security zone within 100 yards of Coast Guard Station New York, Staten Island, NY, Coast Guard Station Sandy Hook, NJ, Coast Guard Station Kings Point, NY, and Coast Guard Aids to Navigation Team New York, Bayonne, NJ.

The safety and security zones will protect Coast Guard assets, others in the maritime community, and the surrounding communities from subversive or terrorist attack against the Coast Guard that could cause serious damage to vessels, the port or the environment or adversely impact the Coast Guard's ability to conduct its assigned missions. The Captain of the Port does not expect this rule to interfere with the transit of any vessels through the waterways adjacent to any cutter or shoreside facility. Additionally, vessels will not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zones.

Commercial Waterfront Facilities

The Coast Guard is establishing a permanent safety and security zone within 25 yards of each commercial waterfront facility located within the New York Marine Inspection and Captain of the Port Zones that is capable of accepting barge, ship, or ferry vessels. A "commercial waterfront facility" means all piers, wharves, docks and similar structures to which commercial vessels may be secured; areas of land or water under and in immediate proximity to them; buildings on such structures or contiguous to them; and

equipment and materials on such structures and in such buildings. During transfer operations at a commercial waterfront facility, the 25-yard zone would be measured from the outboard side of the commercial vessel instead of the pierhead. These zones prohibit the entry of vessels that are not actively engaged in legitimate, scheduled transfer operations at the individual facilities. Vessels may transit through any portion of the zone that extends into the navigable channel for the sole purpose of direct and expeditious transit through the zone so long as they remain within the navigable channel, maintain the maximum safe distance from the waterfront facility and do not stop or loiter within the zone.

The safety and security zones are necessary to protect each facility, commercial vessels moored at the facility, 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 commercial vessels, the port, or the environment. The Captain of the Port does not expect this rule to interfere with the transit of any vessels through the waterways adjacent to each facility. Additionally, vessels will not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone.

Liberty and Ellis Islands

The Coast Guard is establishing a permanent safety and security zone encompassing all waters within 150 yards of Liberty Island, Ellis Island, and the bridge between Liberty State Park and Ellis Island.

The safety and security zones are necessary to protect each Island, the bridge between Liberty State Park and Ellis Island, authorized sight-seeing vessels operating at each island, others in the maritime community, and the surrounding communities from subversive or terrorist attack against the islands that could potentially cause serious negative impact to vessels, the port, or the environment. The Captain of the Port does not expect this rule to interfere with the transit of any vessels through the waterways adjacent to each Island. Additionally, vessels will not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zones.

Bridge Piers and Abutments, Overhead Power Cable Towers, Piers, and Tunnel Ventilators

The Coast Guard is establishing a permanent safety and security zone within 25 yards of each bridge pier and abutment, overhead power cable tower, pier, and tunnel ventilator, located within the waters of the New York Marine Inspection and Captain of the Port New York Zones, south of the Troy, NY Locks.

The safety and security zones are necessary to protect each bridge, overhead power cable, pier, abutment, tunnel ventilator, others in the maritime community, and the surrounding communities from subversive or terrorist attack against the protected structures that could potentially cause serious negative impact to commercial ground shipments by vehicle or railroad, private vehicle traffic, vessels, the port, or the environment. The Captain of the Port does not expect this rule to interfere with the transit of any vessels through the waterways adjacent to each bridge, overhead power cable, and tunnel ventilator. Vessels may transit through any portion of the zone that extends into the navigable channel for the sole purpose of direct and expeditious transit through the zone so long as they remain within the navigable channel, maintain the maximum safe distance from the protected structure and do not stop or loiter within the zone. Additionally, vessels will not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zones.

New York City Passenger Ship Terminal, Hudson River, NY

The Coast Guard is establishing a permanent safety and security zone that will be enforced whenever passenger vessels are pierside at Pier 88, 90, or 92, or whenever the passenger ship terminal or the adjacent Intrepid Sea, Air and Space Museum, Manhattan is being used as an Emergency Operations Center. The Coast Guard will provide notification and termination of enforcement of a particular safety or security zone by way of methods identified in 33 CFR 165.7.

This safety and security zone includes all waters of the Hudson River bound by the following points: From the northeast corner of Pier 96 where it intersects the seawall, thence west to approximate position 40°46'23.1" N, 073°59'59.0" W, thence south to approximate position 40°45'55.3" N, 074°00'20.2" W (NAD 1983), thence east to the southeast corner of Pier 84 where it intersects the

seawall, thence north along the shoreline to the point of origin. Marine traffic will still be able to transit through the western 660 yards of the 900-yard wide Hudson River during the activation of the zone. Vessels moored at piers within the safety and security zone, however, will not be allowed to transit from their moorings without permission from the Captain of the Port, New York, during the effective periods of the safety and security zone. The only vessels that will be affected by the safety or security zones will be other passenger vessels at the Passenger Terminal or visiting vessels at the Intrepid Sea, Air and Space Museum. The Captain of the Port may authorize these vessels to transit through these zones. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this safety and security zone.

The safety and security zones are necessary to protect the passenger vessels, their crews and passengers, others in the maritime community, and the surrounding communities from subversive or terrorist attack that could cause serious negative impact to vessels, the port, or the environment, and result in numerous casualties.

The Captain of the Port will notify the maritime community of periods during which this safety and security zone will be enforced in accordance with methods identified in 33 CFR 165.7.

Any violation of any safety or security zone herein, is punishable by, among others, civil penalties (not to exceed \$27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 10 years and a fine of not more than \$100,000), *in rem* liability against the offending vessel, and license sanctions. This regulation is established under the authority contained in 50 U.S.C. 191, 33 U.S.C. 1223, 1225 and 1226.

No person or vessel may enter or remain in a prescribed safety or security zone at any time without the permission of the Captain of the Port, New York. Each person or vessel in a safety or security zone shall obey any direction or order of the Captain of the Port. The Captain of the Port may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from a security zone.

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 Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the fact that vessels will be able to transit around the safety and security zones at the Indian Point Nuclear Power Station, the Coast Guard Stations and Cutters, Commercial Waterfront Facilities, Liberty Island, Ellis Island, Bridge Piers and Abutments, Overhead Power Cable Towers and Abutments, Tunnel Ventilators, the New York City Passenger Ship Terminal, and the DVs, vessels can still transit through the harbor before, during, or after these vessels' transits, the expected short duration of these zones' activation, the expected infrequency of the activation of the safety and security zones around LHG vessels and LHG facilities, and advance notifications will be made by methods in accordance with 33 CFR 165.7.

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 will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the New York Marine Inspection and Captain of the Port Zones in which entry will be prohibited by safety or security zones.

These safety and security zones will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessels will be able to transit around the safety and security zones at the Indian Point Nuclear Power Station, the Coast Guard Stations and Cutters, Commercial Waterfront Facilities, Liberty Island, Ellis Island, Bridge Piers and Abutments, Overhead Power Cable Towers and Abutments, Tunnel

Ventilators, the New York City Passenger Ship Terminal, and the DVs, vessels can still transit through the harbor before, during, or after these vessels' transits, the expected short duration of these zones' activation, the expected infrequency of the activation of the safety and security zones around LHG vessels and LHG facilities, and the advance notifications that will be provided by the methods described above.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. However, we received no requests for assistance from any small entities.

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 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 an 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 Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might 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 considered the environmental impact of this rule and concluded that under figure 2-1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes

safety and security zones. A "Categorical Exclusion Determination" is 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. 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. Revise § 165.160 to read as follows:

§ 165.160 Safety and Security Zones: Liquefied Hazardous Gas Vessel, Liquefied Hazardous Gas Facility and Designated Vessel Transits, New York Marine Inspection Zone and Captain of the Port Zone.

(a) *Location.* The following areas are safety and security zones:

(1) All waters of the New York Marine Inspection Zone and Captain of the Port Zone within a 200-yard radius of any Liquefied Hazardous Gas (LHG) vessel or LHG facility.

(2) All waters of the New York Marine Inspection Zone and Captain of the Port Zone within a 100-yard radius of any Designated Vessels.

(b) *Designated Vessels (DVs).* For the purposes of this section, DVs are: 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.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 and 165.33 apply.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(3) The Captain of the Port will notify the maritime community of periods

during which these zones will be enforced by methods in accordance with 33 CFR 165.7 and will identify DV vessel transits by way of electronic mail broadcast.

3. Add § 165.169 to read as follows:

§ 165.169 Safety and Security Zones: New York Marine Inspection Zone and Captain of the Port Zone.

(a) *Safety and security zones.* The following waters within the New York Marine Inspection Zone and Captain of the Port Zone are safety and security zones:

(1) *Indian Point Nuclear Power Station (IPNPS).* 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 (NAD 83).

(2) *U.S. Coast Guard Cutters and Shore Facilities.* All waters within 100 yards of: Each moored, or anchored, Coast Guard Cutter; Coast Guard Station New York, Staten Island, NY; Coast Guard Station Sandy Hook, NJ; Coast Guard Station Kings Point, NY; and Coast Guard Aids to Navigation Team New York, Bayonne, NJ.

(3) *Commercial Waterfront Facilities.* All waters within 25 yards of each commercial waterfront facility that is capable of accepting barge, ferry or other commercial vessels. For purposes of this section, "commercial waterfront facility" means all piers, wharves, docks and similar structures to which barge, ferry or other commercial vessels may be secured; areas of land or water under and in immediate proximity to them; buildings on such structures or contiguous to them; and equipment and materials on such structures and in such buildings.

(i) When a barge, ferry or other commercial vessel is conducting transfer operations at a commercial waterfront facility, the 25-yard zone is measured from the outboard side of the commercial vessel.

(ii) Vessels may transit through any portion of the zone that extends into the navigable channel for the sole purpose of direct and expeditious transit through the zone so long as they remain within the navigable channel, maintain the maximum safe distance from the commercial waterfront facility and do not stop or loiter within the zone.

(4) *Liberty and Ellis Islands.* All waters within 150 yards of Liberty Island, Ellis Island, and the bridge between Liberty State Park and Ellis Island.

(5) *Bridge Piers and Abutments, Overhead Power Cable Towers, Piers and Tunnel Ventilators.* All waters within 25 yards of any bridge pier or

abutment, overhead power cable tower, pier or tunnel ventilators south of the Troy, NY Locks. Vessels may transit through any portion of the zone that extends into the navigable channel for the sole purpose of direct and expeditious transit through the zone so long as they remain within the navigable channel, maintain the maximum safe distance from the waterfront facility and do not stop or loiter within the zone.

(6) *New York City Passenger Ship Terminal, Hudson River, NY.* (i) *Location.* All waters of the Hudson River bound by the following points: From the northeast corner of Pier 96 where it intersects the seawall, thence west to approximate position 40°46'23.1" N, 073°59'59.0" W, thence south to approximate position 40°45'55.3" N, 074°00'20.2" W (NAD 1983), thence east to the southeast corner of Pier 84 where it intersects the seawall, thence north along the shoreline to the point of origin.

(ii) *Enforcement period.* This zone will be enforced whenever passenger vessels are pierside at Pier 88, 90 or 92 or whenever the passenger ship terminal or the adjacent Intrepid Sea, Air and Space Museum, Manhattan is being used as an Emergency Operations Center. The activation and termination of a particular zone will be announced in accordance with 33 CFR 165.7.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 and 165.33 apply.

(2) Vessels not actively engaged in legitimate transfer operations shall not stop or loiter within that part of a commercial waterfront facility safety and security zone extending into the navigable channel, described in paragraph (a)(3) of this section, without the express permission of the Coast Guard Captain of the Port or the designated on-scene patrol personnel.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: December 30, 2002.

N.E. Merkle,

Captain, Coast Guard, Acting Captain of the Port, New York.

[FR Doc. 03-1285 Filed 1-21-03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR-01-003; FRL-7429-5]

Approval and Promulgation of Implementation Plans; Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves numerous revisions to the State of Oregon Implementation Plan submitted to EPA by the Director of the Oregon Department of Environmental Quality (ODEQ) on November 5, 1999, March 7, 2000, June 26, 2001, and November 4, 2002. The revisions were submitted in accordance with the requirements of section 110 and parts C and D of title I of the Clean Air Act (hereinafter CAA or Act).

DATES: This direct final rule will be effective March 24, 2003, unless EPA receives adverse comment by February 21, 2003. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Debra Suzuki, EPA, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Oregon, Department of Environmental Quality, 811 SW. Sixth Avenue, Portland, Oregon 97204-1390.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Senior Air Pollution Scientist, EPA, Office of Air Quality (OAQ-107), Seattle, Washington 98101, (206) 553-4253.

SUPPLEMENTARY INFORMATION: Please note that if EPA receives adverse comment on an amendment, paragraph or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt

as final those provisions of the rule that are not the subject of an adverse comment. Throughout this document, wherever "we," "us," or "our" is used, we mean the EPA. Information is organized as follows:

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I. Rule Recodification

A. Description of Submittal

On November 5, 1999, ODEQ submitted a complete rule renumbering to EPA for approval into the SIP. The rules are renumbered and re-labeled to more accurately describe their content, and non-applicable and duplicative rules are repealed to eliminate conflicts and purge outdated requirements. These rule changes are non-substantive. The following Divisions were submitted as part of the rule renumbering, with an effective date under State law of October 14, 1999: 200 (General Air Pollution Procedures and Definitions), 202 (Ambient Air Quality Standards and PSD Increments), 204 (Designation of Air Quality Areas), 206 (Air Pollution Emergencies), 208 (Visible Emissions and Nuisance Requirements), 210 (Stationary Source Notification Requirements), 212 (Stationary Source Testing and Monitoring), 214