

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 rule 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 effect 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 may 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.ID, this rule is categorically excluded from further environmental documentation.

### 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. In § 165.916, revise paragraph (a)(1) to read as follows:

#### § 165.916 Security Zone; Captain of the Port Milwaukee Zone, Lake Michigan.

(a) *Location.* \* \* \*

(1) *Kewaunee Nuclear Power Plant.* All navigable waters of Western Lake Michigan encompassed by a line commencing from a point on the shoreline at 44°20.715' N, 087°32.080' W; then easterly to 44°20.720' N, 087°31.630' W; then southerly to 44°20.480' N, 087°31.630' W; then

westerly to 44°20.480' N, 087°31.970' W, then northerly following the shoreline back to the point of origin (NAD 83).

\* \* \* \* \*

Dated: January 13, 2004.

**H.M. Hamilton,**

*Commander, U.S. Coast Guard, Captain of the Port Milwaukee.*

[FR Doc. 04-1859 Filed 1-28-04; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD01-03-012]

RIN 1625-AA00 (Formerly RIN 2115-AA97)

#### Security Zone; General Dynamics, Electric Boat Corporation, Groton, CT

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is modifying the existing security zone at the General Dynamics Electric Boat Corporation (EB) facility in Groton, CT. The rule increases the parameters of the existing security zone around the southern portion of the EB facility to fully encompass the facility and infrastructure. This rule also changes the coordinates used in the existing security zone to North American Datum 1983. The enlargement of the zone is necessary to provide continuous coverage for EB, safeguarding the facility, U.S. Naval Vessels, and other vessels located at the facility, material storage areas, and adjacent residential and industrial areas from sabotage or other subversive acts, accidents, or incidents of a similar nature. This security zone prohibits all persons and vessels from entering or operating within the prescribed security zone without first obtaining authorization from the Captain of the Port, Long Island Sound.

**DATES:** This rule is effective March 1, 2004.

**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 CGD01-03-012, and are available for inspection or copying at Group/MSO Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant A. Logman, Waterways

Management Officer, Coast Guard Group/Marine Safety Office Long Island Sound at (203) 468-4429.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On May 6, 2003, we published a notice of proposed rulemaking (NPRM) entitled "Safety and Security Zones; New London Harbor, Connecticut—Security Zone" in the **Federal Register** (68 FR 23935). We received two letters commenting on the proposed rule. No public hearing was requested, and none was held.

##### Background and Purpose

As a highly visible and vital part of the U.S. Navy submarine construction and maintenance, as well as being adjacent to other facilities and population centers, the General Dynamics Electric Boat Corporation (EB) facility in Groton, CT presents a potential target for terrorist attack. To protect this facility from such attack, a permanent security zone, located at 33 Code of Federal Regulations (CFR) 165.140(a)(1), has been in place around the Electric Boat facility for several years. This rule will correct inaccuracies in the directional orientation of the current coordinates in 33 CFR 165.140(a)(1) and revises these coordinates to North American Datum 1983, providing coordinates consistent with those used by the maritime community. This rule will also expand the security zone parameters to encompass the southern end of the EB facility. The zone is established by reference to coordinates.

##### Discussion of Comments and Changes

Two comments were received regarding the proposed rule, both from commercial fishermen who operate in the Thames River in the vicinity of the EB facility. The first letter claims that the security zone will have an adverse economic impact on fishermen who have historically worked in the area around the EB facility. As provided for in the general regulations regarding security zones contained in 33 CFR 165.33, any vessel may request entry into the security zone from the Captain of the Port, Long Island Sound (COTP). The COTP will review requests to enter the security zone on a case-by-case basis. Fishermen may request permission to enter the zone for a one-time or ongoing basis. Permission to enter the zone is subject to review and/or revocation by the COTP based upon security concerns. No changes to the regulatory text were made in response to this comment.

The second comment letter also raised concern with the potential interference the security zone would have on the operation of commercial fishermen in the area of the security zone. Specifically, the comment recommended establishing similar conditions at EB to the restrictions on transit surrounding Naval Submarine Base New London, Groton, Connecticut, and recommends a similar process of registration to use the security zone area. The waters of the Thames River adjacent to Naval Submarine Base New London contain both a security zone immediately adjacent to the Base, as well as a restricted area established by the U.S. Army Corps of Engineers (ACOE) under 33 CFR 334.75; the restricted area extends the entire width of the Thames River. The purpose of a restricted area, as defined in 33 CFR 334.2(b), is to prohibit or limit public access to the area in order to provide security for Government property and or protection to the public from the risks of damage or injury arising from the Government's use of that area. Per the regulation authorizing the establishment of restricted areas by the ACOE at 33 CFR 334.3, however, a restricted area shall provide for public access to the maximum extent possible. A security zone established under the Ports and Waterways Safety Act, 33 United States Code (U.S.C.) 1221, *et seq.*, and the Magnuson Act, 50 U.S.C. 191, *et seq.*, and the regulations established thereunder, more appropriately addresses the security concerns surrounding the EB facility, by completely prohibiting access to the security zone area. As discussed above, however, fishermen may request permission either on an individual trip basis or an ongoing basis from the COTP to fish in those areas restricted by the security zone. No changes to the regulatory text were made in response to this comment.

##### 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 Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This regulation

may have some impact on the public, but these potential impacts will be minimized for the following reasons: The security zone encompasses only a small portion of the Thames River, encompassing pier and industrial areas not suitable for commercial or recreational vessel transit; there is no impact on the navigable channel in the Thames River by the increased security zone area at the southern portion of the Electric Boat property; the security zone minimally impacts the channel, but this overlap is necessary to provide sufficient security for naval vessels and Electric Boat infrastructure, and leaves ample room for vessels to navigate around the security zone in the channel; and any commercial impact may be alleviated by requesting permission to enter the security zone from the COTP. While recognizing the potential for some minimal impact from the rule, the Coast Guard considers it de minimus in comparison to the compelling national interest in protecting the naval vessels under construction and undergoing maintenance at the EB Facility, as well as protecting adjacent industrial facilities and residential areas from possible acts of terrorism, sabotage or other subversive acts, accidents, or other causes of a similar nature.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule will 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 may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in those portions of Long Island Sound and the Thames River covered by the RNA and/or safety and security zones.

For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (*see ADDRESSES*) explaining why you think it

qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If this rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Lieutenant A. Logman, Waterways Management Officer, Group/Marine Safety Office Long Island Sound, at (203) 468–4429.

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 rule 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 effect 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 would not concern an environmental risk to health or risk to safety that may 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 would 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

The Coast Guard 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. 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Amend § 165.140, by revising paragraph (a)(1) and adding paragraph (a)(3) to read as follows:

#### § 165.140 New London Harbor, Connecticut—Security Zone

(a) *Security zones:* (1) *Security Zone A.* The waters of the Thames River west of the Electric Boat Corporation Shipyard enclosed by a line beginning at a point on the shoreline at 41°20'16" N, 72°04'47" W; then running west to 41°20'16" N, 72°04'57" W; then running north to 41°20'26" N, 72°04'57" W; then northwest to 41°20'28.7" N, 72°05'01.7" W; then north-northwest to 41°20'53.3" N, 72°05'04.8" W; then north-northeast to 41°21'02.9" N, 72°05'04.9" W; then east to a point on shore at 41°21'02.9" N, 72°04'58.2" W.

\* \* \* \* \*

(3) All coordinates are North American Datum 1983.

\* \* \* \* \*

Dated: January 15, 2004.

**Joseph J. Coccia,**

*Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.*

[FR Doc. 04–1856 Filed 1–28–04; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[CGD13–03–018]

RIN 1625–AA00

#### Security and Safety Zone; Protection of Large Passenger Vessels, Puget Sound, WA; Correction

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule; correction.