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#### 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 can better evaluate its effects on them and participate in the rulemaking. The Coast Guard offered small businesses, organizations, or governmental jurisdictions that believed the rule would affect them, or that had questions concerning its provisions or options for compliance, to contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

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 the 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 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction, from further environmental documentation.

#### List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05-1(g); section 117.255 also issued under authority of Pub. L. 102-587, 106 Stat. 5039.

■ 2. § 117.317(k) is added to read as follows:

#### § 117.317 Okeechobee Waterway.

\* \* \* \* \*

(k) *Caloosahatchee River Bridge (SR 29), Mile 103, Labelle, Florida.*

The Caloosahatchee River bridge (SR 29), mile 103, shall open on signal, except that from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, except Federal holidays, the bridge need not open. Exempt vessels shall be passed at any time.

Dated: January 15, 2004.

**F.M. Rosa,**

*Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.*

[FR Doc. 04-1857 Filed 1-28-04; 8:45 am]

**BILLING CODE 4910-15-P**

#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 126

[USCG-1998-4302]

RIN 1625-AA07 (Formerly RIN 2115-AE22)

#### Handling of Class 1 (Explosive) Materials or Other Dangerous Cargoes Within or Contiguous to Waterfront Facilities

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** In the final rule with this same title published September 26, 2003, we noted that the Office of Management and Budget (OMB) had not approved a collection of information associated with our requirement that owners or operators of waterfront facilities desiring to handle packaged and bulk-solid dangerous cargo must post warning signs constructed and installed according to National Fire

Protection Association (NFPA) 307, chapter 7–8.7. OMB has since approved that collection of information and the portion of the rule with this requirement will become effective March 1, 2004.

**DATES:** 33 CFR 126.15(a)(3), as published September 26, 2003 (68 FR 55436), is effective March 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this document, call Brian Robinson, Project Manager, Vessel and Facility Operating Standards Division (G–MSO–3), room 1218, telephone 202–267–0018, e-mail [brobinson@comdt.uscg.mil](mailto:brobinson@comdt.uscg.mil). If you have questions on viewing the docket (USCG–1998–4302), call Andrea M. Jenkins, Program Manager, Docket Operations, Department of Transportation, telephone 202–366–0271.

**SUPPLEMENTARY INFORMATION:** Section 126.15(a)(3) of title 33 Code of Federal Regulations (CFR) requires owners or operators of all designated waterfront facilities to post warning signs. Posting of warning signs is a collection of information under OMB control no. 1625–0016 (Formerly 2115–0054). The final rule that contained the provisions on warning signs was published in the **Federal Register** on September 26, 2003 (68 FR 55436), and is available electronically through the docket (USCG–1998–4302) web site at <http://dms.dot.gov>. It became effective on October 27, 2003, with the exception of 33 CFR 126.15(a)(3).

As required by 44 U.S.C. 3507(d), we submitted a copy of the final rule to OMB for its review on October 6, 2003. On November 17, 2003, after reviewing the rule, OMB approved the collection of information required by this final rule under OMB control no. 1625–0016.

Dated: January 22, 2004.

**Howard L. Hime,**

*Acting Director of Standards, Marine Safety, Security & Environmental Protection.*

[FR Doc. 04–1860 Filed 1–28–04; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD09–03–277]

RIN 2115–AA97

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

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is revising the size of the security zone for Kewanee Nuclear Power Plant on Lake Michigan. This security zone is necessary to protect the nuclear power plant from possible sabotage or other subversive acts, accidents, or possible acts of terrorism. The zone is intended to restrict vessel traffic from a portion of Lake Michigan.

**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 available for inspection or copying at Marine Safety Office Milwaukee, between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Marine Science Technician Michael Schmidtke, U.S. Coast Guard Marine Safety Office Milwaukee, at (414) 747–7155.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On October 17, 2003, we published a notice of proposed rulemaking (NPRM) entitled “Security Zone; Captain of the Port Milwaukee Zone, Lake Michigan” in the **Federal Register** (68 FR 59752). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

##### Background and Purpose

On September 11, 2001, the United States was the target of coordinated attacks by international terrorists resulting in catastrophic loss of life, the destruction of the World Trade Center, significant damage to the Pentagon, and tragic loss of life. National security and intelligence officials warn that future terrorist attacks are likely.

This regulation revises a previously established security zone around the Kewanee Nuclear Power Plant. This security zone is necessary to protect the public, facilities, and the surrounding area from possible sabotage or other subversive acts. All persons other than those approved by the Captain of the Port Milwaukee, or his authorized representative, are prohibited from entering or moving within the zone. The Captain of the Port Milwaukee may be contacted via VHF Channel 16 for further instructions before transiting through the restricted area. In addition to publication in the **Federal Register**, the public will be made aware of the existence of this security zone, its exact location, and the restrictions involved via Local Notice to Mariners and the Broadcast Notice to Mariners.

##### Discussion of Comments and Changes

We received no comments in response to this rulemaking. Therefore, we have made no changes from proposed rule.

##### 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).

##### 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 security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Our rule will not obstruct the regular flow of commercial traffic and will allow vessel traffic to pass around the security zone. In addition, in the event that it may be necessary, prior to transiting commercial vessels can request permission from the Captain of the Port Milwaukee to transit through the zone.

##### 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. No comments or questions were received from any small businesses.

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