

■ 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. Add § 165.552 to read as follows.

### § 165.552 Security Zone; Oyster Creek Generation Station, Forked River, Ocean County, New Jersey.

(a) *Location.* The following area is a security zone: Starting at the south branch of the Forked River in the vicinity of the Oyster Creek Generation Station, bounded by a line beginning at 39°49'12.0" N, 074°12'13.0" W; thence to 39°48'39.7" N, 074°12'0" W; along the shoreline, thence to 39°48'40.0" N, 074°12'0.3" W; thence to 39°49'11.8" N, 074°12'10.5" W; thence back along the shoreline to the beginning point. All coordinates reference Datum: NAD 1983.

(b) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones in § 165.33 of this part.

(2) No person or vessel may enter or navigate within this security zone unless authorized to do so by the Coast Guard or designated representative. Any person or vessel authorized to enter the security zones must operate in strict conformance with any directions given by the Coast Guard or designated representative and leave the security zone immediately if the Coast Guard or designated representative so orders.

(3) The Coast Guard or designated representative enforcing this section can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at (215) 271–4807.

(4) The Captain of the Port will notify the public of any changes in the status of this security zone by Marine Safety Radio Broadcast on VHF–FM marine band radio, channel 22 (157.1 MHz).

(c) *Definitions.* For the purposes of this section, *Captain of the Port* means the Commanding Officer of the Coast Guard Marine Safety Office/Group Philadelphia, or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act as a designated representative on his behalf.

Dated: January 23, 2004.

**Liam J. Slein,**

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

[FR Doc. 04–2308 Filed 2–3–04; 8:45 am]

**BILLING CODE 4910–15–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### CFR Part 165

[COTP PHILADELPHIA 03–005]

RIN 1625–AA00

### Security Zone; Oyster Creek Generation Station, Forked River, Ocean County, NJ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule, change in effective period.

**SUMMARY:** The Coast Guard is continuing a temporary security zone on the waters adjacent to the Oyster Creek Generation Station. This zone will protect the safety and security of the plants from subversive activity, sabotage, or terrorist attacks initiated from surrounding waters. This action will close water areas around the plants.

**DATES:** Effective January 24, 2004. Section 165.T05–091, added at 68 FR 32645, June 2, 2003, effective from 5 p.m. EDT on May 13, 2003, to 5 p.m. EST on January 24, 2004, as amended by this rule is effective through March 4, 2004.

**ADDRESSES:** Documents as indicated in this preamble are available as part of docket COTP Philadelphia 03–005 for inspection or copying at Coast Guard Marine Safety Office Philadelphia, One Washington Avenue, Philadelphia, Pennsylvania, 19147, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Kevin Sligh or Ensign Doreen Moore, Coast Guard Marine Safety Office/Group Philadelphia, at (215) 271–4889.

#### SUPPLEMENTARY INFORMATION:

#### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and (d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this regulation effective less than 30 days after publication in the **Federal Register**. Based upon the warnings from national security and

intelligence personnel, this rule is urgently required to protect the plant from subversive activity, sabotage or possible terrorist attacks initiated from the waters surrounding the plants.

It took longer to resolve issues related to the final rule, which appears elsewhere in today's **Federal Register**, that will create a permanent security zone in this area than we originally expected at the time the last temporary final rule was issued. This new temporary final rule is necessary because it would be contrary to public interest not to maintain a temporary safety and security zone until the final rule becomes effective March 5, 2004.

This security zone should have minimal impact on vessel transits because the security zone does not block the channel.

#### Background and Purpose

Due to the continued warnings from national security and intelligence officials that future terrorist attacks are possible, such as those launched against New York and Washington, DC on September 11, 2001, heightened security measures are necessary for the area surrounding the Oyster Creek Generation Station. This rule will provide the Captain of the Port Philadelphia with enforcement options to deal with potential threats to the security of the plants.

Currently, the need for this security zone still exists. This temporary rule will continue the effective period of the security zone through March 4, 2004 during the 30-day delayed effective period of a final rule published elsewhere in this issue of the **Federal Register**. That final rule, entitled "Security Zone; Oyster Creek Generation Station, Forked River, Ocean County, NJ", will become effective March 5, 2004 and will implement a permanent security zone surrounding the plant.

#### Discussion of Rule

No person or vessel may enter or remain in the prescribed security zone at any time without the permission of the Captain of the Port, Philadelphia, Pennsylvania or designated representative. Federal, state, and local agencies may assist the Coast Guard in the enforcement of this 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 Homeland Security (DHS).

The primary impact of this rule will be on vessels wishing to transit the affected waterway. Although this rule restricts traffic from freely transiting portions of Oyster Creek and Forked River, that restriction affects only a limited area and will be well publicized to allow mariners to make alternative plans.

#### **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 may affect the following entities, some of which may be small entities: Owners or operators of fishing vessels and recreational vessels wishing to transit the portions of Oyster Creek and Forked River.

The rule will not have a significant impact on a substantial number of small entities for the following reasons: The restrictions affect only a limited area and traffic will be allowed to transit through the zone with permission of the Coast Guard or designated representative. The opportunity to engage in recreational and charter fishing outside the geographical limits of the security zone will not be disrupted. Therefore, this regulation should have a negligible impact on recreational and charter fishing activity.

#### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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 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 Security Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to security 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 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 (34) (g), of Commandant Instruction M16475.1D, from further environmental documentation.

A final "Environmental Analysis Checklist" and a final "Categorical Exclusion Determination" will be 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:

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■ 1. The authority citation for part 165 continues to read as follows:

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■ 2. Section 165.T05–091 is reinstated and revised to read as follows:

**§ 165.T05–091 Security Zone; Oyster Creek Generation Station, Forked River, Ocean County, New Jersey.**

(a) *Location.* The following area is a security zone: starting at the south branch of the Forked River in the vicinity of the Oyster Creek Generation Station, bounded by a line beginning at 39°49'12.0" N, 074°12'13.0" W; thence to 39°48'39.7" N, 074°12'0" W; along the shoreline, thence to 39°48'40.0" N, 074°12'0.3" W; thence to 39°49'11.8" N, 074°12'10.5" W; thence back along the shoreline to the beginning point. All coordinates reference Datum: NAD 1983.

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(3) The Coast Guard or designated representative enforcing this section can be contacted on VHF Marine Band Radio, channels 13 and 16. The Captain of the Port can be contacted at (215) 271–4807.

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(c) *Definitions.* For the purposes of this temporary section, *Captain of the Port* means the Commanding Officer of the Coast Guard Marine Safety Office/ Group Philadelphia or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act as a designated representative on his behalf.

(d) *Effective period.* This section is effective from 5 p.m. (EDT) on May 13, 2003, through March 4, 2004.

Dated: January 16, 2004.

**Jonathan D. Sarubbi,**

*Captain, U.S. Coast Guard, Captain of the Port Philadelphia.*

[FR Doc. 04–2309 Filed 2–3–04; 8:45 am]

**BILLING CODE 4910–15–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[CT–057–7216g; A–1–FRL–7617–8]

**Approval and Promulgation of Implementation Plans; Connecticut; Motor Vehicle Emissions Budgets for 2005 and 2007 using MOBILE6.2 for the Connecticut Portion of the New York-Northern New Jersey-Long Island Nonattainment Area and for 2007 for the Greater Connecticut Nonattainment Area**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving a revision to the Connecticut State Implementation Plan (SIP) for the attainment and maintenance of the one-hour National Ambient Air Quality Standard (NAAQS) for ground level ozone submitted by the State of Connecticut. The intended effect of this action is to approve Connecticut's 2005 and 2007 motor vehicle emissions budgets recalculated using MOBILE6.2 for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and to approve Connecticut's 2007 motor vehicle emissions budgets for the Greater Connecticut nonattainment area also recalculated using MOBILE6.2. This action is being taken under the Clean Air Act.

**EFFECTIVE DATE:** This rule is effective on February 4, 2004.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, Boston, MA 02114–2023; and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

**FOR FURTHER INFORMATION CONTACT:** Donald O. Cooke, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114–2023, (617) 918–1668, [cooke.donald@epa.gov](mailto:cooke.donald@epa.gov).

**SUPPLEMENTARY INFORMATION:**

The following table of contents describes the format for the **SUPPLEMENTARY INFORMATION** section:

I. What Action Is EPA Taking Today?

II. What Comments Did EPA Receive in Response to Its Proposal?

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B. Comments Received and EPA's Response

III. What Is EPA's Conclusion?

IV. Statutory and Executive Order Reviews

**I. What Action Is EPA Taking Today?**

On June 17, 2003, the Connecticut Department of Environmental Protection (CTDEP) submitted an amendment to the Connecticut State Implementation Plan (SIP) containing 2005 and 2007 motor vehicle emissions budgets recalculated using the MOBILE6.2 model for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and 2007 motor vehicle emissions budgets for the Greater Connecticut nonattainment area. This SIP revision fulfills the commitment made by the CTDEP in its February 8, 2000 SIP submittal to revise the transportation conformity budgets using EPA's MOBILE6 emissions model.<sup>1</sup> In addition, this SIP revision demonstrates that the new levels of motor vehicle emissions calculated using MOBILE6.2 continue to support achievement of the rate of progress requirements and projected attainment of the one-hour ozone NAAQS for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and the Greater Connecticut nonattainment area. Connecticut held a public hearing on its proposed SIP revision on May 27, 2003. Today's action approves these budgets.

The specific 2005 and 2007 motor vehicle emission budgets that EPA is approving in today's rulemaking are identified below in Table 1. The rationale for EPA's action are explained in the notice of direct final rulemaking (68 FR 70484) published in the **Federal Register** on December 18, 2003, and will not be restated here.

**II. What Comments Did EPA Receive in Response to Its Proposal?**

*A. Background Information*

On December 18, 2003, the EPA announced in proposed and direct final rules published in the **Federal Register** (68 FR 70437 and 68 FR 70484, respectively) approval of Connecticut's SIP revision for its 2005 and 2007 motor vehicle emissions budgets using MOBILE6.2 for the Connecticut portion of the New York-Northern New Jersey-Long Island nonattainment area and 2007 budgets for the Greater

<sup>1</sup> Document titled "Addenda to the Ozone Attainment Demonstrations for the Southwest Connecticut Severe Ozone Nonattainment Area and Greater Connecticut Serious Ozone Nonattainment Area," February 8, 2000.