

Country	Entity	License requirement	License review policy	Federal Register citation
INDIA	<p>The following Indian Space Research Organization (ISRO) subordinate entities: ISRO Telemetry, Tracking and Command Network (ISTRAC); ISRO Inertial Systems Unit (IISU), Thiruvananthapuram; Liquid Propulsion Systems Center; Solid Propellant Space Booster Plant (SPROB); Space Applications Center (SAC), Ahmadabad; Sriharikota Space Center (SHAR); Vikram Sarabhai Space Center (VSSC), Thiruvananthapuram.</p> <p>The following Department of Atomic Energy entities: Bhabha Atomic Research Center (BARC); Indira Gandhi Atomic Research Center (IGCAR); Indian Rare Earths; Nuclear reactors (including power plants) not under International Atomic Energy Agency (IAEA) safeguards, fuel reprocessing and enrichment facilities, heavy water production facilities and their collocated ammonia plants.</p> <p>The following Department of Atomic Energy entities: Nuclear reactors (including power plants) subject to International Atomic Energy Agency (IAEA) safeguards: Tarapur (TAPS 1 &amp; 2); Rajasthan (RAPS 1 &amp; 2).</p>	<p>For all items subject to the EAR having a classification other than (1) EAR99 or (2) a classification where the third through fifth digits of the ECCN are "999", e.g. XX999.</p> <p>For all items subject to the EAR.</p> <p>For all items subject to the EAR.</p>	<p>Case-by-case review for all items on the CCL.</p> <p>Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items.</p> <p>Case-by-case for all items listed on the CCL. Presumption of approval for EAR99 items. Presumption of approval for EAR99 items not controlled for Nuclear Proliferation (NP) reasons for use in the "balance of plant" (non-reactor-related end uses) <sup>1</sup> activities at nuclear facilities subject to International Atomic.</p>	<p>63 FR 64322, 11/19/98; 65 FR 14444, 03/17/00; 66 FR 50090, 10/01/01; [Insert Federal Register citation 09/22/04.</p> <p>63 FR 64322, 11/19/98; 65 FR 14444, 03/17/00; 66 FR 50090, 10/01/01; [Insert Federal Register citation 09/22/04.</p> <p>63 FR 64322, 11/19/98; 65 FR 14444, 03/17/00; 66 FR 50090, 10/01/01; [Insert Federal Register citation 09/22/04.</p>

<sup>1</sup> "Balance of Plant" refers to the part of a nuclear power plant used for power generation (e.g., turbines, controllers, or power distribution) to distinguish it from the nuclear reactor.

Dated: September 17, 2004.  
**Peter Lichtenbaum,**  
*Assistant Secretary for Export Administration.*  
 [FR Doc. 04-21303 Filed 9-21-04; 8:45 am]  
**BILLING CODE 3510-33-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

**[CGD05-04-047]**

**RIN 1625-AA00**

**Security Zone; Atlantic Ocean, Chesapeake & Delaware Canal, Delaware Bay, Delaware River and Its Tributaries**

**AGENCY:** Coast Guard, DHS.  
**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a security zone that will require all vessels in a 500-yard radius around escorted passenger vessels to operate at the minimum speed necessary to navigate safely and prohibit any vessels from entering within 100 yards of escorted passenger vessels in the Captain of the Port (COTP) Philadelphia. This security zone is needed to ensure public safety and enhance maritime security. The zone will ensure the security of the vessels during transit in the COTP Philadelphia zone.

**DATES:** This rule is effective September 10, 2004.

**ADDRESSES:** Comments and related material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05-04-047 and are available 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 Jill Munsch, Coast Guard Marine Safety Office/Group Philadelphia, at (215) 271-4889.

**SUPPLEMENTARY INFORMATION:**

**Regulatory History**

On June 28, 2004 we published a notice of proposed rulemaking (NPRM) in the **Federal Register** entitled "Security Zone; Atlantic Ocean, Chesapeake & Delaware Canal, Delaware Bay, Delaware River and its tributaries" in the **Federal Register** (69 FR 36032). We received no letters commenting on the proposed rule.

In addition, a temporary final rule with the same title was published in the **Federal Register** on April 13, 2004 (69 FR 19326). That temporary final rule

established a security zone around escorted passenger vessels, but that rule was only effective through September 1, 2004.

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 temporary final rule has expired. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to protect against potential hazards and threats to passenger vessels.

### **Background and Purpose**

This rule is necessary because hostile entities continue to operate with the intent to harm U.S. shipping interests. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks. 67 FR 58317 ((Sept. 13, 2002) (continuing national emergency with respect to terrorist attacks)); 67 FR 59447 ((Sept. 20, 2002) continuing national emergency with respect to persons who commit, threaten to commit or support terrorism)); 68 FR 55189 ((Sept. 22, 2003 (continuing national emergency with respect to persons who commit, threaten to commit or support terrorism)).

The U.S. Maritime Administration (MARAD) recently issued Advisory 03-06 informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attack to the transportation community in the United States. The Coast Guard is establishing this final rule to ensure vessels transit safely in the COTP zone Philadelphia, Pennsylvania.

### **Discussion of Comments and Changes**

During the public comment period, we received no letters or comments concerning this zone. We did not make any changes to the proposed security zone after the comment period.

### **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. There is ample room for vessels to navigate around the security zone and the Captain of the Port may allow vessels to enter the zone on a case-by-case basis with the express permission of the Captain of the Port of Philadelphia or their designated representative.

### **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.

This rule will not have a significant impact on a substantial number of small entities because the restrictions affect only a limited area. Although this is a permanent rule, a security zone will be activated only when an escorted passenger vessel is in the COTP Philadelphia zone. Most vessel traffic can pass safely around the security zone, and maneuver-restricted vessels may seek permission from the COTP to pass within 100 yards of the vessel. Additionally, the opportunity to engage in recreational and charter fishing outside the limits of the security zone will not be disrupted.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities, as none were identified that will be affected by the final rule.

Vessel traffic counts indicate the waterway users will continue to have the same access to the waterway as in the past, with the exception of a small area surrounding transiting passenger vessels in the Captain of the Port Philadelphia zone.

### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Junior Grade Kevin Sligh or Ensign Jill Munsch, Coast Guard Marine Safety Office/Group Philadelphia, at (215) 271-4889.

### **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 will 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. We

invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

#### 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.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 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.

We have considered the security zone access constraints around passenger vessels and have determined the public can safely transit the affected waterways outside the security zone, without significant impact on the environment.

#### 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. Add § 165.511.

#### § 165.511 Security Zone; Atlantic Ocean, Chesapeake & Delaware Canal, Delaware Bay, Delaware River and its tributaries.

(a) *Location.* A 500-yard radius around escorted passenger vessels in the Captain of the Port, Philadelphia zone as defined in 33 CFR 3.25–05.

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

(2) All persons or vessels operating at the minimum safe speed necessary to maintain navigation may transit within 500 yards of an escorted passenger vessel without the permission of the Captain of the Port Philadelphia, PA or designated representative while the escorted passenger vessel is in the Captain of the Port Philadelphia zone.

(3) No person or vessel may transit or remain within 100 yards of an escorted passenger vessel without the permission of the Captain of the Port Philadelphia, PA or designated representative while the passenger vessel is in the Captain of the Port Philadelphia zone.

(4) Any person or vessel authorized to enter the security zone must operate in strict conformance with any directions given by the Captain of the Port Philadelphia, PA or designated representative and leave the security zone immediately if the Captain of the Port Philadelphia, PA or designated representative so orders.

(5) When an escorted passenger vessel approaches within 100 yards of any vessel that is moored or anchored, the stationary vessel must stay moored or anchored while it remains within 100 yards of the passenger vessel unless it is either ordered by or given permission by the Captain of the Port, Philadelphia or designated representative to do otherwise.

(6) The Coast Guard 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.

(c) *Maneuver-restricted vessels.* When conditions permit, the Captain of the Port or designated representative should:

(1) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within the 100 yards of the passenger vessel in order to ensure safe passage in accordance with the Navigation Rules as seen in 33 CFR chapter I, subchapters D and E; and

(2) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver that must transit via a navigable channel or waterway to pass within 100 yards of an anchored passenger vessel.

(d) *Definitions.* As used in 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.

*Escort* means assets (surface or air) with the Coast Guard insignia that accompany and protect the escorted vessel, armed with crew-served weapons that are manned and ready.

*Passenger Vessels* means vessels greater than 100 feet in length, over 100 gross tons that are authorized to carry 500 or more passengers, making voyages lasting more than 24 hours, except for ferries.

Dated: September 10, 2004.

**Jonathan D. Sarubbi,**

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

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 81

[OAR–2003–0083; FRL–7816–2]

#### Air Quality Classifications for the 8-Hour Ozone National Ambient Air Quality Standards

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

**ACTION:** Final rule.

**SUMMARY:** The Clean Air Act (CAA) authorizes EPA to reclassify certain ozone nonattainment areas shortly after