

§ 165.T07–110 Security Zones; Ports of Jacksonville and Canaveral, Florida.

(a) *Regulated area.* Temporary moving security zones are established 100 yards around all tank vessels, passenger vessels and military pre-positioned ships during transits entering or departing the ports of Jacksonville and Canaveral, Florida. These moving security zones are activated when the subject vessels pass the St. Johns River Sea Buoy, at approximate position 30°23'35" N, 81°19'08" W, when entering the port of Jacksonville, or pass Port Canaveral Channel Entrance Buoys #3 or #4, at respective approximate positions 28°22.7' N, 80°31.8' W, and 28°23.7' N, 80°29.2' W, when entering Port Canaveral. Temporary fixed security zones are established 100 yards around all tank vessels, passenger vessels and military pre-positioned ships docked in the Ports Jacksonville and Canaveral, Florida.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into these zones is prohibited except as authorized by the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF–FM Marine Band Radio, Channel 22 (157.1 MHz) of all active security zones in port by identifying the names of the vessels around which they are centered.

(c) *Dates.* This section becomes effective at 11:59 p.m. on October 3, 2001 and will terminate at 11:59 p.m. on June 15, 2002.

Dated: September 29, 2001.

M. M. Rosecrans,

Captain, U. S. Coast Guard, Captain of the Port Jacksonville.

[FR Doc. 01–26161 Filed 10–16–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[COTP San Francisco Bay 01–008]

RIN 2115–AA97

Security Zone; San Francisco Bay, San Francisco, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone in the navigable waters of the United States from the entrance to San Francisco Bay out to 12 nautical miles.

The need for this security zone is based on recent terrorist actions against the United States. Persons and vessels will be prohibited from entering, transiting through or anchoring within the security zone unless authorized by the Captain of the Port, or his designated representative.

DATES: This security zone will be in effect from 5 p.m. (PDT) on September 13, 2001 to 3:59 p.m. (PDT) March 12, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of docket COTP San Francisco Bay 01–008, and will be available for inspection or copying at U.S. Coast Guard Marine Safety Office, San Francisco Bay, Coast Guard Island, Alameda, CA 94501 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Andrew B. Cheney, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3073.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

As authorized by 5 U.S.C. 553, we did not publish a notice of proposed rulemaking (NPRM) for this regulation. In keeping with the requirements of 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and that under 5 U.S.C. 553 (d)(3), good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register**. Due to the recent terrorist attacks on the United States, a heightened level of security has been established concerning all vessels entering navigable waters of the United States. As a result, this security zone is needed to protect the United States and more specifically the people, ports, waterways, and properties of the San Francisco Bay area. The incidents necessitating this security zone did not allow a 30-day period for publication prior to the issuance of this temporary regulation; publishing an NPRM and delaying the effective date would be contrary to public and national security interests.

Background and Purpose

As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99–399), Congress amended the Ports and Waterways Safety Act (PWSA) to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism. 33 U.S.C. 1226. Due

to the terrorist acts against the United States on September 11, 2001, the Coast Guard is establishing a temporary security zone in the navigable waters of the United States from the entrance to San Francisco Bay out to 12 nautical miles. Under the PWSA, navigable waters of the United States includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988. This Presidential proclamation declared that the territorial sea of the United States extends to 12 nautical miles from the baselines of the United States determined in accordance with international law. This security zone will encompass navigable waters within a 12-nautical-mile-arc that is drawn seaward from the following coordinate: latitude 37°48'16" N and longitude 122°31'09" W.

Recent terrorist actions against the United States have increased the need for safety and security measures for U.S. ports and waterways. The zone will be in effect from 5 p.m. (PDT) on September 13, 2001 to 3:59 p.m. (PDT) on March 12, 2002.

This temporary security zone is necessary to provide for the safety and security of the United States of America and the people, ports, waterways and properties within the San Francisco Bay area. The security zone extends from the entrance of San Francisco Bay to the limit of the navigable waters of the United States, a distance of 12 nautical miles, and will be enforced by Coast Guard patrol craft. Persons and vessels are prohibited from entering into or transiting through this security zone unless authorized by the Captain of the Port, or his designated representative.

Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by 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 6 years and a fine of not more than \$250,000), in rem liability against the offending vessel, and license sanctions. Any person who violates this regulation, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years (class C felony).

Regulatory Evaluation

This temporary final rule is not a “significant regulatory action” under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under

section 6 (a)(3) of that Order. It has not been reviewed by the Office of Management and Budget 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). Due to the recent terrorist actions against the United States the implementation of this security zone is necessary for the protection of the United States and its people.

The size of the zone is the minimum necessary to provide adequate protection for the public, vessels, and vessel crews. Any vessels seeking entry into or movement within the security zone must request permission from the Captain of the Port or his authorized patrol representative. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting the public, vessels, and vessel crews from the further devastating consequences of the aforementioned acts of terrorism, and from potential future 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), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. “Small entities” include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

This security zone will not have a significant impact on a substantial number of small entities because although the security zone will occupy the entire entrance of San Francisco Bay, vessels will receive authorization to transit into San Francisco Bay by the Captain of the Port on a case-by-case basis. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Assistance For Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), the Coast Guard offers to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions

concerning its provisions or options for compliance, please contact Lieutenant Andrew B. Cheney, U.S. Coast Guard Marine Office San Francisco Bay at (510) 437–3073.

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 temporary final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 and have determined that this rule 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.

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, because we are establishing a security zone. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under ADDRESSES.

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.

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, 160.5; 49 CFR 1.46.

2. Add new § 165.T11–094 to read as follows:

§ 165.T11–094 Security Zone; Navigable Waters of the United States leading into San Francisco Bay, San Francisco, CA.

(a) *Location.* The security zone will encompass navigable waters within a 12-nautical-mile arc that is drawn seaward from the following coordinate: latitude 37°48'16" N and longitude 122°31'09" W.

(b) *Effective dates.* This section will be in effect from 5 p.m. (PDT) on September 13, 2001 to 3:59 p.m. (PDT) on March 12, 2002. If the need for the security zone ends before the scheduled termination time, the Captain of the Port will cease enforcement of this security zone and will also announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* This section is also issued under section 7 of the Ports and Waterways Safety Act (33 U.S.C. § 1226). In accordance with the general regulations in § 165.33 of this part, no person or vessel may enter or remain in the security zone established by this temporary section, unless authorized by the Captain of the Port, or his designated representative. All other general regulations of § 165.33 of this part apply in the security zone established by this temporary section.

Dated: September 13, 2001.

L.L. Hereth,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.

[FR Doc. 01–26160 Filed 10–16–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[COTP Honolulu 01–006]

RIN 2115–AA97

Security Zone; Various Areas on the Islands of Oahu, Maui, Hawaii, and Kauai, HI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing security zones in designated waters adjacent to the

islands of Oahu, Maui, Hawaii, and Kauai, HI for a period of six-months. These security zones are necessary to protect personnel, vessels, and facilities from acts of sabotage or other subversive acts, accidents, or other causes of a similar nature during operations and will extend from the surface of the water to the ocean floor. The activation and deactivation of these six-month security zones will be announced by Broadcast Notice to Mariners as required. When the zones are activated, entry into these zones is prohibited unless authorized by the U. S. Coast Guard Captain of the Port Honolulu, HI.

EFFECTIVE DATES: This rule is effective from 6 a.m. HST September 22, 2001, to 4 p.m. HST March 22, 2002.

ADDRESSES: The docket for this rulemaking is maintained by the Commanding Officer, U.S. Coast Guard Marine Safety Office Honolulu, 433 Ala Moana Blvd., Honolulu, Hawaii 96813. Docket material is available for inspection or copying at this location between 7 a.m. and 4:30 p.m. on weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR R. T. Spaulding, U. S. Coast Guard Marine Safety Office Honolulu, Hawaii at (808) 522–8264.

SUPPLEMENTARY INFORMATION:**Regulatory Information**

Recent terrorist incidents in New York and Washington, D.C. have called for the implementation of additional measures to protect the national security. These temporary rules are intended to provide for the safety and security of the public, maritime commerce, and transportation, by creating security zones in designated harbors, anchorages, facilities, and adjacent navigable waters of the United States. In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying this action's effective date would be contrary to the public interest since immediate action is needed to protect various areas on the islands of Oahu, Maui, Hawaii, and Kauai, HI, any vessel moored there, and all involved personnel. Details were not available 30 days prior to the event, thus, there was insufficient time to publish a proposed rule in advance of the event or to provide a delayed effective date. Under these circumstances, following normal rulemaking procedures would be impracticable.

Background and Purpose

The Coast Guard is establishing designated security zones in the waters adjacent to the islands of Oahu, Maui, Hawaii, and Kauai, HI for a period of six-months. These security zones are necessary to protect personnel, vessels, and facilities from acts of sabotage or other subversive acts, accidents, or other causes of a similar nature during operations. These security zones extend from the surface of the water to the ocean floor. Entry into these zones is prohibited unless authorized by the U. S. Coast Guard Captain of the Port Honolulu, HI. Representatives of the Captain of the Port Honolulu will enforce these security zones. The Captain of the Port may be assisted by other federal or state agencies.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 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). The U. S. Coast Guard expects the economic impact of this action to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the short duration of the zone and the limited geographic area affected by it.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we 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 U. S. Coast Guard certifies under 5 U.S.C. 605(b) that this regulation will not have a significant economic impact on a substantial number of small entities. No small business impacts are anticipated due to the small size of the zone and the short duration of the security zone in any one area.

Assistance for Small Entities

Because we did not anticipate any small business impacts, we did not offer