

**FOR FURTHER INFORMATION CONTACT:** Joe Arca, Project Officer, First Coast Guard District, at (212) 668-7165.

**SUPPLEMENTARY INFORMATION:** The NJTRO Bridge at mile 8.4, across Oceanport Creek has a vertical clearance in the closed position of 4 feet at mean high water and 6 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.736.

The owner of the bridge, New Jersey Transit Rail Operations (NJTRO), requested a temporary deviation from the drawbridge operating regulations to facilitate scheduled mechanical bridge repairs to be implemented during two weekend closure periods with a third weekend to be used as a rain date.

In order to perform the above repairs the bridge must remain in the closed position. Vessels that can pass under the bridge without a bridge opening may do so at all times.

This temporary deviation from the drawbridge operation regulations allows the NJTRO Bridge to remain in the closed position for two weekend closures as follows:

From 6 a.m. on Saturday, March 25, 2006 through 6 p.m. on Sunday, March 26, 2006, and from 6 a.m. on Saturday, April 8, 2006 through 6 p.m. on Sunday, April 9, 2006.

In the event inclement weather requires the cancellation of either of the two weekend closures listed above, the bridge may remain closed on an alternate weekend from 6 a.m. on Saturday, April 22, 2006 through 6 p.m. on Sunday, April 23, 2006.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 2, 2006.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 05-007]

RIN 1625-AA87

#### Security Zones; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent fixed security zones in the U.S. navigable waters extending approximately 100 yards around six separate oil refinery piers in the San Francisco Bay area. These security zones are an integral part of the Coast Guard's efforts to protect these facilities and the surrounding areas from destruction or damage due to accidents, subversive acts, or other causes of a similar nature. Entry into the zones is prohibited, unless specifically authorized by the Captain of the Port (COTP) San Francisco Bay, or his designated representative. These zones will be subject to discretionary and random patrol and monitoring by Coast Guard, Federal, state and local law enforcement assets.

**DATES:** This rule is effective April 10, 2006.

**ADDRESSES:** Documents indicated in this preamble, as being available in the docket, are part of docket COTP San Francisco Bay 05-007 and are available for inspection or copying at the Waterways Safety Branch between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Jennifer Green, Waterways Safety Branch, U.S. Coast Guard Sector San Francisco, (510) 437-5873 or the Sector San Francisco Command Center at (415) 399-3547.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On September 22, 2005 we published a notice of proposed rulemaking (NPRM) entitled, Security Zones; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, CA, in the **Federal Register** (70 FR 55607). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held. On September 22, 2005 we also published a temporary final rule (TFR) in the **Federal Register** (70 FR 55536)

establishing temporary fixed security zones in the waters extending approximately 100 yards around six separate oil refinery piers in the San Francisco Bay area, effective from 11:59 p.m. PDT on September 9, 2005, to 11:59 p.m. PST on March 31, 2006.

#### Background and Purpose

As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99-399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

To address the aforementioned security concerns, and to take steps to prevent the catastrophic impact that a terrorist attack against an oil facility pier would have on the public and the environment, the Coast Guard is establishing permanent security zones in the waters extending approximately 100 yards around six separate oil refinery piers. These zones are necessary to protect the people, ports, waterways, and properties of San Francisco Bay, San Pablo Bay, Carquinez Strait, and Suisun Bay areas.

#### Discussion of Comments and Changes

The Coast Guard received no comments on the proposed rule and has not changed the regulations from those proposed in the published NPRM.

#### 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 impact of this rule to be so minimal that a full regulatory evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this rule restricts access to the waters encompassed by the security zones, the effect of this rule is not

significant because: (i) The zones encompass only small portions of the waterways; (ii) vessels are able to pass safely around the zones; and (iii) vessels may be allowed to enter these zones on a case-by-case basis with permission of the Captain of the Port or his designated representative.

The size of the zones is the minimum necessary to provide adequate protection for the oil refinery piers, vessels engaged in operations at the oil facility piers, their crews, other vessels operating in the vicinity, and the public.

#### **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. We expect this rule may affect owners and operators of vessels, some of which may be small entities: Owners and operators of private vessels intending to fish or sightsee near the oil refinery piers.

These security zones will not have a significant economic impact on a substantial number of small entities for several reasons: (i) Vessel traffic will be able to pass safely around the security zones, (ii) vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the security zones to engage in these activities, (iii) and vessels may receive authorization to transit through the zones by the Captain of the Port or his designated representative on a case-by-case basis. In addition to publication in the **Federal Register**, small entities and the maritime public will be advised of these security zones via public notice to mariners.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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.

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 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. 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.ID, 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 the

Instruction, from further environmental documentation because we are establishing a security zone.

An "Environmental Analysis Check List" and a "Categorical Exclusion Determination" (CED) 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:

#### 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 § 165.1197, to read as follows:

#### § 165.1197 Security Zones; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, California.

(a) *Locations.* The following areas are security zones:

(1) *Chevron Long Wharf, San Francisco Bay.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Chevron Long Wharf, Richmond, CA, and encompasses all waters in San Francisco Bay within a line connecting the following geographical positions—

Latitude	Longitude
37°55'52.2" N	122°24'04.7" W
37°55'41.8" N	122°24'07.1" W
37°55'26.8" N	122°24'35.9" W
37°55'47.1" N	122°24'55.5" W
37°55'42.9" N	122°25'03.5" W
37°55'11.2" N	122°24'32.8" W
37°55'14.4" N	122°24'27.5" W
37°55'19.7" N	122°24'23.7" W
37°55'22.2" N	122°24'26.2" W
37°55'38.5" N	122°23'56.9" W
37°55'47.8" N	122°23'53.3" W

and along the shoreline back to the beginning point.

(2) *Conoco-Phillips, San Pablo Bay.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Conoco-Phillips Wharf, Rodeo, CA, and encompasses all waters in San Pablo Bay within a line connecting the following geographical positions—

Latitude	Longitude
38°03'06.0" N	122°15'32.4" W
38°03'20.7" N	122°15'35.8" W
38°03'21.8" N	122°15'29.8" W
38°03'29.1" N	122°15'31.8" W
38°03'23.8" N	122°15'55.8" W
38°03'16.8" N	122°15'53.2" W
38°03'18.6" N	122°15'45.2" W
38°03'04.0" N	122°15'42.0" W

and along the shoreline back to the beginning point.

(3) *Shell Terminal, Carquinez Strait.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Shell Terminal, Martinez, CA, and encompasses all waters in San Pablo Bay within a line connecting the following geographical positions—

Latitude	Longitude
38°01'39.8" N	122°07'40.3" W
38°01'54.0" N	122°07'43.0" W
38°01'56.9" N	122°07'37.9" W
38°02'02.7" N	122°07'42.6" W
38°01'49.5" N	122°08'08.7" W
38°01'43.7" N	122°08'04.2" W
38°01'50.1" N	122°07'50.5" W
38°01'36.3" N	122°07'47.6" W

and along the shoreline back to the beginning point.

(4) *Amorco Pier, Carquinez Strait.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Amorco Pier, Martinez, CA, and encompasses all waters in the Carquinez Strait within a line connecting the following geographical positions—

Latitude	Longitude
38°02'03.1" N	122°07'11.9" W
38°02'05.6" N	122°07'18.9" W
38°02'07.9" N	122°07'14.9" W
38°02'13.0" N	122°07'19.4" W
38°02'05.7" N	122°07'35.9" W
38°02'00.5" N	122°07'31.1" W
38°02'01.8" N	122°07'27.3" W
38°01'55.0" N	122°07'11.0" W

and along the shoreline back to the beginning point.

(5) *Valero, Carquinez Strait.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Valero Pier, Benicia, CA, and encompasses all waters in the Carquinez Strait within a line connecting the following geographical positions—

Latitude	Longitude
38°02'37.6" N	122°07'51.5" W
38°02'34.7" N	122°07'48.9" W
38°02'44.1" N	122°07'34.9" W
38°02'48.0" N	122°07'37.9" W
38°02'47.7" N	122°07'42.1" W

and along the shoreline back to the beginning point.

(6) *Avon Pier, Suisun Bay.* This security zone includes all waters extending from the surface to the sea floor within approximately 100 yards of the Avon Pier, Martinez, CA, and encompasses all waters in Suisun Bay within a line connecting the following geographical positions—

Latitude	Longitude
38°02'24.6" N	122°04'52.9" W
38°02'54.0" N	122°05'19.5" W
38°02'55.8" N	122°05'16.1" W
38°03'02.1" N	122°05'19.4" W
38°02'55.1" N	122°05'42.6" W
38°02'48.8" N	122°05'39.2" W
38°02'52.4" N	122°05'27.7" W
38°02'46.5" N	122°05'22.4" W

and along the shoreline back to the beginning point.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33, entry into the security zones described in paragraph (a) of this section is prohibited, unless specifically authorized by the Captain of the Port San Francisco Bay, or his designated representative.

(2) Persons desiring to transit the area of a security zone may contact the Captain of the Port at telephone number 415–399–3547 or on VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

(c) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of these security zones by federal, state and local law enforcement as necessary.

Dated: February 17, 2006.

**W.J. Uberti,**

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

[FR Doc. 06–2257 Filed 3–8–06; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2005–AL–0002–200528a; FRL–8042–9]

### Approval and Promulgation of Implementation Plans; Alabama: State Implementation Plan Revision

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

**ACTION:** Direct final rule.