

**Authority:** 21 U.S.C. 321, 331, 361, 362, 371, 374.

**§ 720.8 [Amended]**

■ 30. Section 720.8 *Confidentiality of statements* is amended by removing from the second sentence of paragraph (a) the phrase “and in § 20.44 of this chapter”.

Dated: May 3, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Diego 03–010]

RIN 1625–AA00 [Formerly RIN 2115–AA97]

#### Security Zones; San Diego Bay, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is expanding the geographical boundaries of the permanent security zones at Naval Base San Diego; Naval Submarine Base, San Diego; and Naval Base Coronado, California at the request of the U.S. Navy. Modification and expansion of these security zones is needed to ensure the physical protection of naval vessels moored within each zone by accommodating the Navy's placement of anti-small boat barrier booms within the zones. Entry into these zones is prohibited unless authorized by the Captain of the Port (COTP) San Diego; Commander, Naval Base San Diego; Commander, Naval Base Point Loma; Commander, Naval Base Coronado; or Commander, Navy Region Southwest.

**DATES:** The suspension of 33 CFR 165.1101, 165.1103, and 165.1104 (effective from 11:59 p.m. on February 11, 2003 to 11:59 p.m. on May 12, 2003, published in the **Federal Register** at 68 FR 7073–7080, on February 12, 2003) is lifted effective 11:59 p.m. on April 14, 2003. This rule is effective on April 15, 2003.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [COTP San Diego 03–010] and are available for inspection or copying at Coast Guard Marine Safety Office San Diego, 2716 North Harbor Drive, San Diego, California, 92101. Marine Safety Office San Diego, Port Operations

Department between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Joseph Brown, Port Safety and Security, at (619) 683–6495.

**SUPPLEMENTARY INFORMATION:**

#### Regulatory Information

On February 11, 2003, we published a notice of proposed rulemaking (NPRM) entitled [Security Zones; San Diego Bay, CA] in the **Federal Register** (68 FR 6844). We received 0 letters commenting on the proposed rule. No public hearing was requested, and none was held.

Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Maritime Administration (MARAD) recently issued MARAD Advisory 03–03 (182100Z MAR 03) informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attacks to the maritime community in the United States. Further, national security and intelligence officials warn that future terrorist attacks against United States interests are likely. The measures contemplated by the rule are intended to prevent waterborne acts of sabotage or terrorism, which terrorists have demonstrated a capability to carry out. Any delay in making this regulation effective would be contrary to the public interest because immediate action is necessary to protect U.S. naval interests against the possible loss of life, injury, or damage to property.

#### Background and Purpose

On September 16th and 17th, 2002, the Coast Guard published three temporary final rules suspending 33 CFR 165.1101, 33 CFR 165.1103, and 33 CFR 165.1104 and implementing temporary security zones at Naval Base San Diego, Naval Base Coronado, and Naval Submarine Base San Diego. See 67 FR 58524, 67 FR 58526, and 67 FR 58333. Modified versions of these zones have been in place since 1998 and the Coast Guard has not received any comments during that time and no negative incidents have been reported.

The U.S. Navy requested that the Coast Guard implement these security zones in coordination with their installation of anti-small boat barrier booms at the three locations. If you would like to obtain information about the U.S. Navy's action, contact the Assistant Chief of Port Operations, Navy Region Southwest at 619–556–2400.

The Coast Guard is modifying the security zones to allow the U.S. Navy to

put anti-small boat barrier booms at Naval Base San Diego (33 CFR 165.1101); Naval Submarine Base, San Diego (33 CFR 165.1103); and Naval Base Coronado (33 CFR 165.1104). The modification and expansion of these security zones is needed to ensure the physical protection of naval vessels moored in the area by providing adequate standoff distance. The Coast Guard's action supports the Navy's action and is limited to the expansion of the existing zones.

The modification and expansion of these security zones will also prevent recreational and commercial craft from interfering with military operations involving all naval vessels home-ported at Naval Base Coronado, Naval Submarine Base San Diego, and Naval Base San Diego, and it will protect transiting recreational and commercial vessels, and their respective crews, from the navigational hazards posed by such military operations. It will also safeguard vessels and waterside facilities from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into, transit through, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port San Diego; Commander, Naval Base San Diego; Commander, Naval Base Point Loma; Commander, Naval Base Coronado; or Commander, Navy Region Southwest.

#### Discussion of Rule

Specifically, the Coast Guard is expanding the security zone boundaries at the request of the U.S. Navy so that the U.S. Navy can install anti-small boat barrier booms.

In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. 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.

Vessels or persons violating this section will be subject to the penalties