

SUMMARY: The Coast Guard is establishing a temporary regulation requiring all commercial and fishing vessels, regardless of length, to participate in the Vessel Movement Reporting System while operating within the Prince William Sound. This action is being taken to safeguard vessels, ports and waterfront facilities from sabotage or terrorist acts and incidents by providing the Coast Guard with the enhanced ability to track vessel traffic in the Prince William Sound. This action is necessary to ensure public safety and prevent sabotage, terrorist acts or incidents, and to facilitate the efforts of emergency services and law enforcement officers responding to terrorist incidents or attacks.

DATES: This rule is effective from April 3, 2003, through May 18, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD17-03-001 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office, 105 Clifton Street, Valdez, Alaska 99686 between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT C.L. Huot, U.S. Coast Guard Marine Safety Office, 105 Clifton Street, Valdez, Alaska 99686, (907) 835-7262.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, we did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553 (b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The Coast Guard operates under a three-tiered system of Maritime Security (MARSEC) conditions that are aligned with the color coded Homeland Security Advisory System Conditions (HSAS). The port of Valdez has been elevated to the second highest level of alert MARSEC II/HSAS ORANGE based on the conflict with Iraq and, as such, vessel control measures for the Coast Guard to establish heightened deterrence and detection of terrorist activities in the port are necessary.

Additionally, the Maritime Administration recently issued MARAD Advisory 03-01 (071900Z FEB 03) 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. Further, the heightened security posture of the country and U.S. maritime interests, described below, continues. The publication of an NPRM is contrary to the public interest insofar as urgent

action is required to address the ongoing threat to U.S. maritime transportation interests.

For the same reasons, 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 measures contemplated by the rule are intended to prevent waterborne acts of sabotage or terrorism, which terrorists have demonstrated a capability to carry out. Immediate action is needed to defend against and deter these terrorist acts. Any delay in the effective date of this rule is impracticable and contrary to the public interest.

Background and Purpose

Terrorist attacks on September 11, 2001, inflicted catastrophic human casualties and property damage. These attacks highlighted the terrorists' ability and desire to utilize multiple means in different geographic areas to increase their opportunities to successfully carry out their mission, thereby maximizing destruction using multiple terrorist acts.

Since the September 11, 2001, terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. The threat of maritime attacks is real as evidenced by the October 2002 attack on a tank vessel off the coast of Yemen and the prior attack on the USS *Cole*. These attacks manifest a continuing threat to U.S. assets as described in the President's finding in Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002), that the security of the U.S. is endangered by the September 11, 2001, attacks and that such disturbances continue to endanger the international relations of the United States. *See also Continuation of the National Emergency with Respect to Certain Terrorist Attacks*, (67 FR 58317, September 13, 2002); *Continuation of the National Emergency With Respect To Persons Who Commit, Threaten To Commit, Or Support Terrorism*, (67 FR 59447, September 20, 2002). The U.S. Maritime Administration (MARAD) in Advisory 02-07 advised U.S. shipping interests to maintain a heightened state of alert against possible terrorist attacks. MARAD more recently issued Advisory 03-01 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 ongoing hostilities in Afghanistan and conflict in Iraq have made it prudent for

U.S. ports and waterways to be on a higher state of alert because the al Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

The conflict in Iraq has caused the Attorney General in consultation with the Secretary of the Department for Homeland Security to elevate the HSAS threat condition to High/Orange and accordingly the Coast Guard has established MARSEC II in the port of Valdez. The Coast Guard will follow the guidance for the Department of Homeland Security and implement the following general measures: Coordinate necessary security efforts with Federal, State, and local law enforcement agencies or any National Guard or other appropriate armed forces organizations; take additional precautions at public events and possibly considering alternative venues or even cancellation; and restrict threatened facility access to essential personnel only. The measures contemplated by this rule are intended to prevent future terrorist attacks against critical maritime infrastructure including the Trans-Alaska Pipeline System's Valdez Marine Terminal, and the shipping lanes leading to and from it. This terminal supplies approximately half of the crude oil needs of the U.S. West Coast.

To address the aforementioned security concerns and to take steps to prevent the catastrophic impact that a terrorist attack against a major crude oil loading terminal or other critical infrastructure in the port of Valdez would have on the public interest, the 17th Coast Guard District Commander is establishing vessel movement reporting requirements for all commercial and fishing vessels. These amendments to the existing rules for the Prince William Sound Regulated Navigation Area will help to prevent vessels or persons from engaging in terrorist actions against petroleum terminals, petroleum tankers, or other critical port facilities by providing the Coast Guard with the enhanced ability to track vessel movement in the Prince William Sound.

The Coast Guard is establishing these vessel movement reporting requirements within Prince William Sound, Alaska in order to safeguard vessels, ports and waterfront facilities from sabotage or terrorist acts or incidents. These requirements apply to commercial and fishing vessels operating within the boundaries of the Regulated Navigation Area defined in 33 CFR 165.1704. The Regulated Navigation Area is coextensive with the VTS Area and consists of the navigable waters of the United States north of a