

that, the draw need not open for the passage of vessels Monday through Friday except Federal holidays from 6:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 6 p.m.

Dated: January 15, 2003.

**J.R. Whitehead,**

*Captain, U.S. Coast Guard, Acting  
Commander, 8th Coast Guard District.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP Jacksonville 02-066]

RIN 2115-AA97

#### Security Zones; Ports of Jacksonville, Fernandina, and Canaveral, Florida

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing permanent security zones around certain vessels within the ports of Jacksonville, Fernandina, and Canaveral. The security zones will prohibit entry into or movement within 100 yards of all tank vessels, cruise ships, and military pre-positioned ships when these vessels enter, depart or moor within the ports of Jacksonville and Canaveral. These security zones are needed to ensure public safety and prevent sabotage or terrorist acts against vessels in the COTP Jacksonville area of responsibility. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, Jacksonville, Florida or his designated representative.

**DATES:** This rule is effective February 24, 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 [COTP Jacksonville 02-066] and are available for inspection or copying at Marine Safety Office Jacksonville, 7820 Arlington Expressway, Suite 400, Jacksonville, FL 32211, between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

LTJG Drew Casey, Coast Guard Marine Safety Office Jacksonville, at (904) 232-3610.

**SUPPLEMENTARY INFORMATION:**

#### Regulatory Information

On September 12, 2001, one day after the September 11 terrorist attacks, the

Coast Guard Captain of the Port in Jacksonville established a temporary rule establishing security zones around tank vessels, passenger vessels, and military pre-positioned ships until October 3, 2001 (published on September 26, 2001, 66 FR 49104). Following these attacks by well-trained and clandestine terrorists, national security and intelligence officials have warned that future terrorists attacks are likely. As a result, on October 17, 2001, the Coast Guard published a second temporary rule in the **Federal Register** continuing these zones through 11:59 p.m. June 15, 2002 (66 FR 52689). The third temporary rule continued the zones through noon on November 15, 2002 (67 FR 41339). A fourth temporary rule continued the zones until January 30, 2003 so the Coast Guard can give adequate consideration to the comments received from the notice of proposed rulemaking (67 FR 55184).

On August 28, 2002 we published a notice of proposed rulemaking in the **Federal Register** entitled "Security Zones; Ports of Jacksonville, Canaveral, and Fernandina, FL" (67 FR 55184). We received one comment on the proposed rule, which is discussed below.

#### Background and Purpose

This rule creates 100-yard security zones around all tank vessels, cruise ships, and military pre-positioned ships when these vessels enter, depart or moor within the Ports of Jacksonville, Fernandina, and Canaveral. No person or vessel may enter these zones without the permission of the Captain of the Port of Jacksonville. These moving security zones are activated when the subject vessels pass the St. Johns River Sea Buoy, at approximate position 30 deg. 23' 35" N, 81 deg. 19' 08" W, when entering the Port of Jacksonville, or pass Port Canaveral Channel Entrance Buoys # 3 or # 4, at respective approximate positions 28 deg. 22.7' N, 80 deg. 31.8', and 28 deg. 23.7' N, 80 deg. 29.2' W, when entering Port Canaveral or passes St. Mary's River Sea Buoy, at approximate position 30 deg. 40.8" N, 81 deg 11.8" W, when entering the Port of Fernandina. Fixed security zones are established 100 yards around all tank vessels, cruise ships, and military pre-positioned ships docked in the Ports of Jacksonville, Fernandina, and Canaveral, Florida.

#### Discussion of Comments and Changes

We received one comment on the proposed rule from the Florida Department of Transportation (FDOT), Seaport Office. FDOT expressed concern that the regulation, if implemented, would not provide security for sensitive

land-based resources, such as waterfront storage tanks and petroleum facilities. FDOT's concern for shore-based resources is shared by the Coast Guard and is being addressed at the national level through separate security measures. See *Maritime Security*, 67 FR 79742 (Dec. 30, 2002) (Notice of public meetings on Coast Guard national maritime security measures, including in Jacksonville, FL, on Feb. 7, 2003.)

A second concern from FDOT was that the NPRM did not prove that such a zone would prevent sabotage or terrorist acts. The Coast Guard has concluded that this rule is a necessary measure to protect certain high-risk vessels on the navigable waterways of the United States. The 100-yard security zones, although not guaranteed to eliminate all risk of sabotage or terrorist acts, will significantly reduce vulnerability and provide an enforcement mechanism if a violation occurs.

The third and final concern expressed by FDOT was that this rule would cause disruption to the movement of people and goods. First, this rule has been in place since September 2001 in the Jacksonville area and has not caused any noticeable disruption to maritime trade and transportation. Secondly, the Captain of the Port has discretion to allow a vessel to transit a security zone, if deemed necessary, to promote safe and efficient marine transportation. The environment in which the maritime industry operates has dramatically changed since September 2001. The Coast Guard believes these types of security zones, which only extend 100 yards around certain vessels, create the appropriate balance between efficient maritime transportation and necessary security in our new environment.

No changes were made to the proposed rule as a result of the comment received.

#### 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 Transportation (DOT) (44 FR 11040; February 26, 1979) because the impact of this rule on commercial and recreational vessel navigation is minimal because most vessels will be able to transit around these zone and the Captain of the Port