

needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port San Francisco Bay, or his designated representative.

DATES: The amendment to § 165.T11–077(f) in this rule is effective May 30, 2003. Section 165.T11–077, added at 68 FR 9003, February 27, 2003, effective from 11:59 p.m. PST on February 10, 2003, to 11:59 p.m. PDT on May 31, 2003, as amended in this rule, is extended in effect to 11:59 p.m. PDT on September 30, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket [COTP San Francisco Bay 03–002] and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Doug Ebbers, Waterways Branch U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437–3073.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On February 27, 2003, we published a temporary final rule (TFR) for High Interest Vessels (HIVs) in San Francisco Bay and Delta ports entitled “Security Zones; San Francisco Bay, CA” in the **Federal Register** (68 FR 9003) under § 165.T11–077. It has been in effect since February 10, 2003 and is set to expire 11:59 p.m. PDT on May 31, 2003.

We did not publish a notice of proposed rulemaking (NPRM) this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. In addition, 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**, for the following reasons. The threat of maritime attacks is real as evidenced by the October 2002 attack of a tank vessel off the coast of Yemen and the 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). Additionally, a Maritime Advisory was issued to: Operators of U.S. Flag and Effective U.S. controlled Vessels and other Maritime Interests, detailing the current threat of attack, MARAD 02–07 (October 10, 2002). As a result, a heightened level of security has been established around all HIVs in San Francisco Bay and Delta ports. Additionally, the measures contemplated by this rule are intended to prevent future terrorist attacks against individuals and facilities within or adjacent to HIVs. Any delay in the effective date of this TFR is impractical and contrary to the public interest.

The original temporary final rule was urgently required to prevent possible terrorist strikes against the United States and more specifically the people, waterways, and properties in and near the San Francisco and Delta ports. It was anticipated that we would assess the security environment at the end of the effective period to determine whether continuing security precautions were required and, if so, propose regulations responsive to existing conditions. We have determined that the need for continued security regulations exists.

We plan to publish a notice of proposed rulemaking (NPRM) for a permanent HIV security zone. In this NPRM, we will propose to amend 33 CFR 165.1183, which was added by the Final rule [COTP San Francisco Bay 02–019] published in the **Federal Register** (67 FR 79854) on December 31, 2002. 33 CFR § 165.1183, “Security Zones; Cruise Ships and Tank Vessels, San Francisco Bay and Delta ports, California”, establishes security zones around cruise ships and tank vessels, but does not address HIVs. The forthcoming NPRM will clarify the classes of vessels sought to be encompassed in the section and will allow for a public comment period and for a final rule to be put into effect without an interruption in the protection provided by this temporary rule establishing HIV security zones. Section 165.1183 will remain in effect until amended by a future rule.

The measures contemplated by this extension to the original temporary final rule are intended to facilitate ongoing response efforts and prevent future terrorist attack. The Coast Guard will utilize the extended effective period created by this TFR to engage in notice and comment rulemaking to develop permanent regulations tailored to the present and foreseeable security environment with the Captain of the

Port (COTP) San Francisco Bay. Therefore, the public will still have the opportunity to comment on this rule. This revision preserves the status quo within the Ports while permanent regulations are developed.

Background and Purpose

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. In addition, the ongoing hostilities in Afghanistan and Iraq have made it prudent to U.S. ports 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.

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.

In this particular rulemaking, to address the aforementioned security concerns, and to take steps to prevent the catastrophic impact that a terrorist attack against an HIV would have on the public interest, the Coast Guard is extending the effective period of security zones around and under HIVs entering, departing, moored or anchored within the San Francisco Bay and Delta ports. These security zones help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against HIVs. Due to these heightened security concerns, and the catastrophic impact a terrorist attack on an HIV would have on the crew and passengers on board, and surrounding area and communities, security zones are prudent for these types of vessels.

As of today, the need for security zones around HIVs still exists. This temporary final rule will extend the