

threats. The zones will prohibit entry into or movement within these areas without authorization from the Captain of the Port New York.

**DATES:** Comments and related material must reach the Coast Guard on or before September 8, 2003.

**ADDRESSES:** You may mail comments and related material to Waterways Oversight Branch (CGD01-03-036), Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305. The Waterways Oversight Branch of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room 204, Coast Guard Activities New York, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander E. Morton, Waterways Oversight Branch, Coast Guard Activities New York at (718) 354-4012.

#### **SUPPLEMENTARY INFORMATION:**

##### **Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01-03-036), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### **Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Waterways Oversight Branch at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a separate notice in the **Federal Register**.

#### **Background and Purpose**

On September 11, 2001, three commercial aircraft were hijacked and flown into the World Trade Center in New York City, and the Pentagon, inflicting catastrophic human casualties and property damage. National security and intelligence officials warn that future terrorist attacks are likely. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks. See, *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 President also has found pursuant to law, including the Magnuson Act (50 U.S.C. 191 *et seq.*), that the security of the United States is endangered by disturbances in international relations of United States that have existed since the terrorist attacks on the United States and such disturbances continue to endanger such relations.

*Executive Order 13273 of August 21, 2002, Further Amending Executive Order 10173, as Amended, Prescribing Regulations Relating to the Safeguarding of Vessels, Harbors, Ports, and Waterfront Facilities of the United States*, 67 FR 56215 (September 3, 2002)

Since the September 11, 2001 terrorist attacks, the Federal Bureau of Investigation has issued several warnings concerning the potential for additional attacks within the United States. In addition, the ongoing hostilities in Afghanistan and the war in Iraq have made it prudent for U.S. ports and properties of national significance 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 Captain of the Port New York recently established six new safety and security zones throughout the New York Marine Inspection Zone and Captain of the Port Zone. (68 FR 2890, January 22, 2003). Subsequently, the Captain of the Port has determined that the safety and security zones proposed by this rule are urgently required to meet critical maritime domain security needs that were not addressed by the earlier rule. On February 19, 2003, we published a Temporary final rule; request for comments entitled "Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone" in the **Federal Register** (68 FR 7926)

temporarily establishing these safety and security zones. We received no letters commenting on the temporary rule. No public hearing was requested, and none was held.

The Coast Guard proposes to establish permanent safety and security zones around La Guardia and John F. Kennedy airports, the New York City Police Department ammunition depot, and the Port Newark/Port Elizabeth commercial shipping facilities.

Additionally, we propose to establish a permanent safety and security zone in all waters of Upper New York Bay between the Global Marine and Military Ocean Terminals, west of the New Jersey Pierhead Channel. This proposed zone was inadvertently not placed in the Temporary final rule establishing the other six safety and security zones. It is currently being enforced by a Vessel Traffic Service Measure as provided for in 33 CFR 161.11.

These safety and security zones are necessary to provide for the safety of the port and to ensure that vessels, facilities, airports, or ammunition depots, are not used as targets of, or platforms for, terrorist attacks. These zones would restrict entry into or movement within portions of the New York Marine Inspection and Captain of the Port Zones.

#### **Discussion of Proposed Rule**

This proposed rule would establish the following safety and security zones:

*La Guardia Airport, Bowery and Flushing Bays, Queens, NY*

The Coast Guard proposes to establish a safety and security zone in all waters of Bowery and Flushing Bays within approximately 200 yards of La Guardia Airport. The zone would start at a point onshore in Steinway, Queens (approximate position 40°46'32.1" N, 073°53'22.4" W (NAD 1983)), proceeding east/northeast, 200 yards off the shoreline to a point 200 yards off the shoreline and 25 yards southeast of the lighted runway approach extending through Rikers Island Channel, continuing to the northwest, maintaining a distance of 25 yards off the lighted runway approach, to a point 25 yards past the end of the lighted runway approach, to the Rikers Island shoreline in approximate position, 40°47'13.0" N, 073°53'16.1" W, thence easterly along the Rikers Island shoreline to approximate position 40°47'12.9" N, 073°52'17.9" W, maintaining a distance of 25 yards around the lighted runway approach extending to the east of Rikers Island, to a point 200 yards off the shoreline of La Guardia Field, continuing 200 yards off