

revision preserves the status quo within the Ports while threat assessments are conducted and—if it is determined they are necessary—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 for 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 the Golden Gate Bridge or the San Francisco-Oakland Bay Bridge would have on the public, the Coast Guard is revising the enforcement period of the temporary security zones extending 25 yards in the U.S. navigable waters around all piers, abutments, fenders and pilings of the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, San Francisco Bay, California. These security zones help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against these two bridges.

As of today, the need for security zones around the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge still exists. This temporary final rule will extend the enforcement period of security zones that were set to expire

September 30, 2003, for and additional 6 months. The amended effective dates will be from September 30, 2003, to March 31, 2004. This period will allow the bridge owners to conduct a threat assessment to determine if permanent security zones are appropriate. In addition, if permanent security zones are deemed appropriate, this period will allow the Coast Guard time to publish a notice of proposed rulemaking (NPRM) in the **Federal Register**, which will include a public comment period, and for a final rule to be put into effect without there being an interruption in the protection provided by these security zones.

### Discussion of Rule

On March 19, 2003, we published the temporary final rule [COTP San Francisco Bay 03-003] titled “Security Zones; San Francisco Bay, CA” in the **Federal Register** (68 FR 13228). That rule established fixed security zones extending from the surface to the sea floor, 25 yards in the waters around all piers, abutments, fenders and pilings of the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, San Francisco Bay, California.

The Coast Guard will utilize the extended enforcement period of these security zones to work with bridge owners to determine if permanent security zones are appropriate and, if so, 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.

In this regulation, the Coast Guard is extending the enforcement period of the current security zones for the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, San Francisco Bay, California. These security zones will encompass all waters, extending from the surface to the sea floor, within 25 yards around all piers, abutments, fenders and pilings of the two bridges. Vessels and people may be allowed to enter an established security zone on a case-by-case basis with authorization from the Captain of the Port.

Vessels or persons violating this section will be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed \$27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of \$250,000), and in rem liability against the offending vessel. Any person who

violates this section using a dangerous weapon or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation will also face imprisonment up to 12 years. Vessels or persons violating this section are also subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel to the United States, a maximum criminal fine of \$10,000, and imprisonment up to 10 years as well as a civil penalty of not more than \$25,000 for each day of a continuing violation.

The Captain of the Port will enforce these zones and may enlist the aid and cooperation of any Federal, State, county, municipal, and private agency to assist in the enforcement of the regulation. This regulation is proposed under the authority of 33 U.S.C. 1226 in addition to the authority contained in 50 U.S.C. 191 and 33 U.S.C. 1231.

### 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 Homeland Security (DHS).

Although this regulation restricts access to the zones, the effect of this regulation will not be significant because: (i) The zones will encompass only a small portion of the waterway; (ii) vessels will be able to pass safely around the zones; and (iii) vessels may be allowed to enter these zones on a case-by-case basis with permission of the Captain of the Port or his designated representative.

The sizes of the zones are the minimum necessary to provide adequate protection for the bridges and the nearby public. The entities most likely to be affected are commercial vessels transiting the main ship channel en route to the San Francisco Bay and Delta ports and pleasure craft engaged in recreational activities and sightseeing.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and