

and equipment and the flexibility to accommodate local mariners to the maximum extent permissible under the circumstances then existing.

#### **NYPD Ammunition Depot, Rodman Neck, Eastchester Bay, NY**

The Coast Guard is establishing two temporary safety and security zones in all waters of Eastchester Bay near the NYPD Ammunition Depot bound by the following points:

First, all waters of Eastchester Bay within approximately 150 yards of Rodman Neck bound by the following points: Onshore in approximate position 40°51'30.4" N, 073°48'14.9" W, thence to 40°51'29.9" N, 073°48'20.7" W, thence to 40°51'16.9" N, 073°48'22.5" W, thence to 40°51'07.5" N, 073°48'18.7" W, thence to 40°50'54.2" N, 073°48'11.1" W, thence to 40°50'48.5" N, 073°48'04.6" W, thence to 40°50'49.2" N, 073°47'56.5" W, thence to 40°51'03.6" N, 073°47'47.3" W, thence to 40°51'15.7" N, 073°47'46.8" W, thence to 40°51'23.5" N, 073°47'41.9" W, (NAD 1983) thence southwesterly along the shoreline to the point of origin.

Second, within the boundaries of the above-described 150-yard zone, all waters of Eastchester Bay within approximately 100 yards of Rodman Neck bound by the following points: Onshore in approximate position 40°51'30.4" N, 073°48'14.9" W, thence to 40°51'30.1" N, 073°48'19.0" W, thence to 40°51'16.8" N, 073°48'20.5" W, thence to 40°51'07.9" N, 073°48'16.8" W, thence to 40°50'54.9" N, 073°48'09.0" W, thence to 40°50'49.7" N, 073°48'03.6" W, thence to 40°50'50.1" N, 073°47'57.9" W, thence to 40°51'04.6" N, 073°47'48.9" W, thence to 40°51'15.9" N, 073°47'48.4" W, thence to 40°51'23.5" N, 073°47'41.9" W, (NAD 1983) thence southwesterly along the shoreline to the point of origin.

When port security conditions permit, the Captain of the Port will allow vessels to operate within that portion of the 150-yard zone that lies outside of the waters described in the 100-yard zone. Authorization to enter the waters that lie between the outer boundaries of the two zones will be communicated by the Captain of the Port to the public by marine broadcast, local notice to mariners, or notice posted at <http://www.harborops.com>. This regulatory framework provides the Captain of the Port with the tools to safeguard Police Department property and equipment and the flexibility to accommodate local mariners to the maximum extent permissible under the circumstances then existing.

#### **Port Newark/Port Elizabeth, Newark Bay, NJ**

The Coast Guard is establishing a temporary safety and security zone that includes all waters of Newark Bay bound by the following points:

40°41'49.9" N, 074°07'32.2" W, thence to 40°41'46.5" N, 074°07'20.4" W, thence to 40°41'10.7" N, 074°07'45.9" W, thence to 40°40'54.3" N, 074°07'55.7" W, thence to 40°40'36.2" N, 074°08'03.8" W, thence to 40°40'29.1" N, 074°08'06.3" W, thence to 40°40'21.9" N, 074°08'10.0" W, thence to 40°39'27.9" N, 074°08'43.6" W, thence to 40°39'21.5" N, 074°08'50.1" W, thence to 40°39'21.5" N, 074°09'54.3" W, (NAD 1983) thence northerly along the shoreline to the point of origin.

The zones described above are necessary to protect the La Guardia and John F. Kennedy airports, NYPD ammunition depot, and the Port Newark/Port Elizabeth commercial shipping facilities, others in the maritime community, and the surrounding communities from subversive or terrorist attack against the airports, ammunition depot, and commercial shipping facilities that could potentially cause serious negative impact to vessels, the port, commercial ground shipments by vehicle or rail, airline traffic, or the environment and result in numerous casualties. The Captain of the Port does not expect this rule to interfere with the transit of any vessels through the waterways adjacent to each facility. Vessels will still be able to transit around the safety and security zones at all times. Additionally, vessels will not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zones.

Any violation of any safety or security zone herein is punishable by, among others, civil penalties (not to exceed \$27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 10 years and a fine of not more than \$100,000), in rem liability against the offending vessel, and license sanctions. This regulation is established under the authority contained in 50 U.S.C. 191, 33 U.S.C. 1223, 1225 and 1226.

No person or vessel may enter or remain in a prescribed safety or security zone at any time without the permission of the Captain of the Port, New York. Each person or vessel in a safety or security zone shall obey any direction or order of the Captain of the Port. The Captain of the Port may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from a security zone.

#### **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).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the fact that: The zones are temporary in nature; the zones implicate relatively small portions of the waterway; vessels will be able to transit around the safety and security zones at all times; commercial vessels visiting Port Newark/Port Elizabeth are already subject to control of the Vessel Traffic Service and previously established safety and security zones while recreational and fishing vessels are unlikely to operate within that area; and the Captain of the Port will relax the enforcement of the 200-yard zones around airport facilities and the 150-yard zone around the NYPD ammunition depot whenever he determines that the security environment existing within the port allows him to do so.

#### **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 governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the New York Marine Inspection and Captain of the Port Zones in which entry will be prohibited by safety or security zones.

These safety and security zones will not have a significant economic impact on a substantial number of small entities for the following reasons: The zones are