

Regulatory Information

The Route 1 & 9 (Lincoln Highway) Bridge has a vertical clearance of 40 feet at mean high water and 45 feet at mean low water. The existing regulations listed at 33 CFR § 117.739(b), require the draw to open on signal after at least a four-hour advance notice is given.

The bridge owner, the New Jersey Department of Transportation, requested a temporary deviation from the drawbridge operation regulations to facilitate scheduled maintenance, the replacement of the counterweight cables and the machining of the trunions and journals, at the bridge.

Under this temporary deviation the bridge may remain in the closed position from 7 a.m. on March 12, 2003 through midnight on April 2, 2003, and from 7 a.m. on April 12, 2003 through midnight on May 10, 2003.

The bridge normally has few requests to open. The Coast Guard coordinated the deviation closure schedule with the only known waterway user. No objections were received.

This deviation from the drawbridge operating regulations is authorized under 33 CFR § 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: February 21, 2003.

Vivien S. Crea,

*Rear Admiral, Coast Guard, Commander,
First Coast Guard District.*

[FR Doc. 03-6635 Filed 3-18-03; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01-03-019]

Drawbridge Operation Regulations: Chelsea River, MA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the P.J. McArdle Bridge, mile 0.3, across Chelsea River between East Boston and Chelsea, Massachusetts. Under this temporary deviation a four-hour advance notice will be required for openings at night from March 9, 2003 through April 7, 2003. This temporary deviation is necessary to facilitate repairs at the bridge.

DATES: This deviation is effective from March 9, 2003 through April 7, 2003.

FOR FURTHER INFORMATION CONTACT: John McDonald, Project Officer, First Coast Guard District, at (617) 223-8364.

SUPPLEMENTARY INFORMATION: The P.J. McArdle Bridge has a vertical clearance in the closed position of 21 feet at mean high water and 30 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.593.

The bridge owner, the City of Boston, requested a temporary deviation from the drawbridge operation regulations to facilitate necessary maintenance, the replacement of the segmental girders, floor beams, and bascule span balancing, at the bridge. The bridge must remain in the closed position to perform these repairs.

The waterway users who normally navigate the Chelsea River at night are commercial tugs and fuel barges. The Coast Guard coordinated this closure with the mariners and the oil facilities who normally use this waterway to help facilitate this necessary bridge repair and to minimize any disruption to the marine transportation system.

Under this temporary deviation the P.J. McArdle Bridge will open on signal provided a four-hour advance notice is given for openings during the following time periods: March 9, through March 15, from 6 p.m. through 7 a.m., March 16, through March 22, from 8 p.m. through 6 a.m., March 23, through March 29, from 8 p.m. through 6 a.m., March 30, through April 5, from 8 p.m. through 6 a.m., April 6, through April 7, from 8 p.m. through 8 a.m.

The bridge owner did not provide the required thirty-day notice to the Coast Guard for this deviation; however, this deviation was approved because the repairs are necessary repairs that must be performed without delay in order to assure the continued safe reliable operation of the bridge and prevent an unscheduled closure due to component failure.

This deviation from the operating regulations is authorized under 33 CFR 117.35(b), and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: March 7, 2003.

Vivien S. Crea,

*Rear Admiral, Coast Guard, Commander,
First Coast Guard District.*

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 03-003]

RIN 1625-AA00

Security Zones; San Francisco Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing fixed 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 are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these security zones is prohibited, unless doing so is necessary for safe navigation, to conduct official business such as scheduled maintenance or retrofit operations, or unless specifically authorized by the Captain of the Port San Francisco Bay, or his designated representative.

DATES: This regulation is effective from 11 a.m. PST on February 13, 2003 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 03-003] 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 Diana Cranston, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437-3073.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), for the reasons set forth below, the Coast Guard finds that good cause exists for not publishing an NPRM. Also, 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** because 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). Moreover, the Secretary of the Department of Homeland Security and the Attorney General recently elevated the Threat Level to Orange—High Condition. A High Condition is declared when there is a high risk of terrorist attacks. As a result, many agencies, like the Coast Guard, that will be a part of the new Department of Homeland Security on March 1, are taking additional steps to increase their protective measures. Under High Condition, among other things, federal agencies are to consider the following protective measures: Coordinate necessary security efforts with federal, state, and local law enforcement agencies, National Guard or other security and armed forces; and Restrict access to a threatened facility to essential personnel only. As a result, a heightened level of security has been established around the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge. Additionally, the measures contemplated by this rule are intended to prevent future terrorist attacks against individuals on or near the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge. Any delay in the effective date of this TFR is impractical and contrary to the public interest.

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 growing tensions in 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.

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 and the San Francisco-Oakland Bay Bridge would have on the public interest, the Coast Guard is establishing security zones around the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge. These security zones help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against these bridges. Due to these heightened security concerns, and the catastrophic impact a terrorist attack on these bridges would have on the public, the transportation system, and surrounding areas and communities, security zones are prudent for these structures.

Discussion of Rule

In this temporary rule, the Coast Guard is establishing 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. Entry into these security zones is prohibited, unless doing so is necessary for safe navigation, or to conduct official business such as scheduled maintenance or retrofit operations. 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. 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, also faces imprisonment up to 12 years.

Coast Guard personnel will enforce this regulation and the Captain of the Port may be assisted by other Federal, State, or local agencies in the patrol and enforcement of the regulation. This regulation is proposed under the authority of 33 U.S.C. 1226 in addition to the authority contained in 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, vessels operating in the vicinity, their crews and passengers, adjoining areas and the public. The entities most likely to be affected are commercial vessels transiting the main ship channel en route 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 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. The security zones will not have a significant economic impact on a substantial number of small entities for several reasons: small vessel traffic can pass safely around the security zones and vessels engaged in recreational

activities, sightseeing and commercial fishing have ample space outside of the security zones to engage in these activities. Small entities and the maritime public will be advised of these security zones via public notice to mariners.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132. Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the

effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because we are establishing a security zone. A

“Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add § 165.T11–078 to read as follows:

§ 165.T11–078 Security Zones; Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, San Francisco Bay, California.

(a) *Location.* All waters extending from the surface to the sea floor, 25 yards around all piers, abutments, fenders and pilings of the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, San Francisco Bay, California.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into these security zones is prohibited, unless doing so is necessary for safe navigation, to conduct official business such as scheduled maintenance or retrofit operations, or unless specifically authorized by the Captain of the Port San Francisco Bay, or his designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number 510–437–3073 or on VHF–FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(d) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

(e) *Enforcement.* All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. Patrol personnel comprise commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by

siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(f) *Effective Dates.* This section becomes effective at 11 a.m. PST on February 13, 2003, and will terminate at 11:59 p.m. PDT on September 30, 2003.

Dated: February 13, 2003.

Steven J. Boyle,

Commander, Coast Guard, Acting Captain of the Port, San Francisco Bay, California.

[FR Doc. 03-6630 Filed 3-18-03; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Los Angeles-Long Beach 02-005]

RIN 1625-AA00 [Formerly RIN 2115-AA97]

Security Zone; Liquefied Hazardous Gas Tank Vessels San Pedro Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is revising current safety zone regulations by establishing security zones around and under all liquefied hazardous gas (LHG) tank vessels located on San Pedro Bay, California, in and near the ports of Los Angeles and Long Beach. These security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones will be prohibited unless specifically authorized by the Captain of the Port Los Angeles-Long Beach.

DATES: This rule is effective March 21, 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 docket [COTP Los Angeles-Long Beach 02-005] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office/Group Los Angeles-Long Beach, 1001 South Seaside Avenue, Building 20, San Pedro, California, 90731 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Rob Griffiths, Assistant Chief of Waterways Management Division, at (310) 732-2020.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On December 27, 2002, we published a notice of proposed rulemaking (NPRM) entitled "Security Zones; Liquefied Hazardous Gas Tank Vessels San Pedro Bay, CA" in the **Federal Register** (67 FR 79014). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Current regulations issued under 33 CFR 165.1151 provide for safety zones around LHG tank vessels that are anchored, moored, or underway near the Los Angeles-Long Beach port areas. However, these safety zones are inadequate to address increased security requirements for LHG tank vessels. On January 28, 2002, we published a temporary final rule (TFR) entitled "Security Zones; San Pedro Bay, California" in the **Federal Register** (67 FR 3814) that expired on June 15, 2002. On June 19, 2002, we published a similar TFR entitled "Security Zones; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, CA" in the **Federal Register** (67 FR 41625) that expired on December 21, 2002.

On December 31, 2002, we published a similar TFR entitled "Security Zones; Liquefied Hazardous Gas Tank Vessels, San Pedro Bay, CA" in the **Federal Register** (67 FR 79856) that is set to expire on March 21, 2003. The Captain of the Port has determined the need for continued security regulations exists. Accordingly, this rulemaking makes permanent the temporary security zones published in the **Federal Register** on December 31, 2002.

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**. The Maritime Administration recently issued a MARAD Advisory (03-01 (071900Z FEB 03)) informing operators of maritime interests of increased threat possibilities to vessels and facilities and a higher risk of terrorist attack to the transportation community in the United States. The current TFR is set to expire March 21, 2003 and any delay in the effective date of this final rule is impractical and contrary to the public interest.

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 growing tensions in 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. Section 104 of the Maritime Transportation Security Act (MTSA) of 2002 (Pub. L. 107-295, 116 Stat. 2064) extended the geographical reach of the Magnuson Act to twelve nautical miles seaward of the baseline of the United States and added civil penalty liability for violation. However, this rulemaking does not exercise the full extent of the geographical limit allowed by the PWSA and the recently amended Magnuson Act. The Coast Guard retains discretion to extend the geographical reach of this rule via notice and comment procedures to the twelve nautical mile limit should circumstances warrant such action.

In this particular rulemaking, to address the aforementioned security concerns and to take steps to prevent the catastrophic impact that a terrorist attack against a LHG tank vessel would have on the public interest, the Coast Guard is revising current LHG safety zone regulations by establishing security zones around and under LHG tank vessels entering, departing, or moored within the ports of Los Angeles and Long Beach. These security zones help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against LHG tank vessels. The Coast Guard has determined the establishment of security zones is prudent for LHG tank vessels because they carry LHG cargoes in bulk.

Discussion of Comments and Changes

We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.