NEPA. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 147 as follows:

PART 147—SAFETY ZONES

■ 1. The authority citation for part 147 continues to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 147.827 to read as follows:

§ 147.827 Marlin Tension Leg Platform Safety Zone.

(a) *Description.* The Marlin Tension Leg Platform (Marlin TLP), Viasca Knoll, Block 915 (VK 915), is located at position 29°6′27.46″ N, 87°56′37.14″ W. The area within 500 meters (1640.4 feet) from each point on the structure's outer edge is a safety zone.

(b) *Regulation.* No vessel may enter or remain in this safety zone except the following:

(1) An attending vessel;

(2) A vessel under 100 feet in length overall not engaged in towing; or

(3) A vessel authorized by the Commander, Eighth Coast Guard District.

Dated: August 19, 2003.

J.W. Stark,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard District Acting.

[FR Doc. 03–24367 Filed 9–25–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Francisco Bay 03–002]

RIN 1625–AA00

Security Zones; San Francisco Bay, California

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; change in effective period.

SUMMARY: The Coast Guard is revising the enforcement period of moving and fixed security zones extending 100 yards around and under all High Interest Vessels (HIVs) that enter, are moored in, anchored in, or depart from the San Francisco Bay and Delta ports, 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 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 September 30, 2003. Section 165.T11–077, added at 68 FR 9006, February 27, 2003, and amended at 68 FR 32368, effective from 11:59 p.m. PST on February 10, 2003, to 11:59 p.m. PDT on September 30, 2003, as amended in this rule, is extended in effect to 11:59 p.m. PST on March 31, 2004.

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. On May 30, 2003, we published a change in effective period in the **Federal Register** (68 FR 32368) that extended the effective period of the above temporary final rule (TFR) to September 30, 2003.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Additionally, 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. Therefore, delaying the effective date of this extension to the existing security zone would be contrary to the public interest since the safety and security of the people, ports, waterways, and properties of San Francisco Bay and Delta Ports areas would be jeopardized without the protection afforded by these security zones. The measures contemplated by this extension are intended to facilitate ongoing response efforts and prevent future terrorist attack. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the protection of all HIVs, their crews, the public and national security.

We plan to publish a notice of proposed rulemaking (NPRM) for a permanent HIV security zone. In that NPRM, we will propose to amend 33 CFR 165.1183, which was added by a 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 the original temporary rule that established 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, 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 for 6 months the effective period of security zones that were set to expire September 30, 2003. The security zones will now expire on March 31, 2003. This will allow the Coast Guard time to publish a notice of proposed rulemaking 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 HIV security zones.

Discussion of Rule

On December 31, 2002, we published the final rule [COTP San Francisco Bay 02–019] adding § 165.1183, ''Security Zones; Cruise Ships and Tank Vessels, San Francisco Bay and Delta ports, California'' in the **Federal Register** (67 FR 79854). That section set forth security zones for cruise ships and tank vessels. A forthcoming NPRM, under docket COTP San Francisco Bay 03–002 will propose to amend section 165.1183 to include HIVs as protected vessels in that section, along with cruise ships and tank vessels. The Coast Guard will utilize the extended effective period of the HIV security zones created by the 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.

This TFR extends the effective period of the current security zones around all HIVs that are anchored, moored or underway within the San Francisco Bay and Delta ports. A security zone is automatically activated when any HIV passes shoreward of the line drawn between San Francisco Main Ship Channel buoys 7 and 8; LLNR 4190 & 4195, positions 37°46.9′ N, 122°35.4′ W and 37°46.5′ N, 122°35.2′ W, respectively, and remains in effect while the vessel is underway, anchored, or moored within the San Francisco Bay and Delta ports. When activated, this security zone will encompass all waters, extending from the surface to the sea floor, within 100 yards ahead, astern and extending 100 yards along either side of any HIV in the San Francisco Bay and Delta ports. This security zone is automatically deactivated when the HIV passes seaward of the line drawn between San Francisco Main Ship Channel buoys 7 and 8; LLNR 4190 & 4195, positions 37°46.9′ N, 122°35.4′ W and 37°46.5′ N, 122°35.2′ W, respectively, on its departure from port. 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, also faces 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, and 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 waters encompassed by the security 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; (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; and (iv) vessels are able to safely transit around the zones while a vessel is moored or at anchor in the San Francisco Bay and Delta ports.

The sizes of the zones are the minimum necessary to provide adequate protection for HIVs, their crews and passengers, other vessels operating in the vicinity of HIVs, 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. The security zones will prohibit any commercial vessels from meeting or overtaking an HIV in the main ship channels, effectively prohibiting use of the channels. However, the moving security zones will only be effective during HIV transits, which will last for approximately 30 minutes.

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. As discussed above, the security zones will affect the following entities some of which may be small entities: the owners and operators of vessels intending to transit or anchor in a portion of the waterways encompassed by the zones. 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 area and vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the security zones to engage in these activities. When a HIV is at anchor, vessel traffic will have ample room to maneuver around the security zones. In addition, vessels may receive authorization to transit through these security zones on a case-by-case basis. 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 (Public Law 104–121), we offered 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in

complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a security zone.

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise paragraph (f) in temporary § 165.T11–077, to read as follows:

§ 165.T11–077 Security Zones; High Interest Vessels, San Francisco Bay and Delta ports, California.

* * * * *

(f) *Effective period.* This section is effective at 11:59 p.m. PST on February 10, 2003, and will terminate at 11:59 p.m. PST on March 31, 2004.

Dated: September 11, 2003.

Gerald M. Swanson,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.

[FR Doc. 03–24365 Filed 9–25–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC90

Glen Canyon National Recreation Area, PWC Use

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rule designates areas where personal watercraft (PWC) may be used in Glen Canyon National Recreation Area, Utah and Arizona. This rule implements the provisions of the National Park Service (NPS) general regulation authorizing parks to allow the use of PWC by promulgating special regulations. The *NPS Management Policies 2001* provides that individual parks should determine whether PWC use is appropriate for a specific park area based on an evaluation of that area's enabling legislation, resources and values, other visitor uses, overall management objectives, and consistent with the criteria of the NPS for managing visitor use.

EFFECTIVE DATE: This rule becomes effective September 26, 2003.

ADDRESSES: Mail inquiries to Kitty L. Roberts, Superintendent, Glen Canyon National Recreation Area, P.O. Box 1507, Page, Arizona 86040.

FOR FURTHER INFORMATION CONTACT: Kym Hall, Special Assistant, National Park Service, 1849 C Street, NW, Room 3145, Washington, DC 20240. Phone: (202) 208–4206. E-mail: *Kym_Hall@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

Statutory Authority To Regulate Recreational Use

The NPS is granted broad statutory authority under various acts of Congress to manage and regulate water activities in areas of the National Park System. 16 U.S.C. 1, 1a–2(h) and 3. The NPS's Organic Act of 1916 (Organic Act) (16 U.S.C. 1 *et seq.*) authorizes the NPS to ''regulate the use of Federal areas known as national parks, monuments, and reservations * * * by such means and measures as conform to the fundamental purpose of the said parks * * * which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.'' Congress has also emphasized that the ''authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the national park system and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress.'' 16 U.S.C. 1a–1. The appropriateness of a visitor use or recreational activity will vary from park to park. NPS Management Policies states that ''the laws do give the Service the management discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, so long as the impact does not constitute impairment of the affected resources and values.'' (1.4.3). NPS Management Policies provide further that, ''preserving park resources and values unimpaired is the core, or primary responsibility of NPS managers * * *. In cases of doubt as to impacts of activities on park natural resources, the Service will decide in favor of protecting the natural resources.'' (4: 1).

The Organic Act and the other statutory authorities of the NPS vest the NPS with substantial discretion in determining how best to manage park resources and provide for park visitors. ''Courts have noted that the Organic Act is silent as to the specifics of park management and that under such circumstances, the NPS has broad discretion in determining which avenues best achieve the Organic Act's mandate * * *. Further, the NPS is empowered with the authority to determine what uses of park resources are proper and what proportion of the park resources are available for each use'' *Bicycle Trail Council of Marin* v. *Babbitt,* 82 F.3d 1445, 1454 (9th Cir. 1996), quoting *National Wildlife Federation* v. *National Park Service,* 669 F. Supp. 384, 390 (D. Wyo. 1987). In reviewing a challenge to NPS regulations at Everglades National Park, the court stated, ''The task of weighing the competing uses of Federal property have been delegated by Congress to the Secretary of the Interior * * *. Consequently, the Secretary has broad discretion in determining how best to protect public land resources.'' *Organized Fisherman of Florida* v. *Hodel,* 775 F.2d 1544, 1550 (11th Cir. 1985), *cert. denied,* 476 U.S. 1169 (1986).

Regulation of PWC Use

Over the years, NPS areas have been impacted with new, and what often prove to be controversial, recreational activities. These activities tend to gain a foothold in NPS areas in their infancy, before a full evaluation of the possible impacts and ramifications that expanded use will have on the area can be initiated, completed, and considered. PWC use fits this category.

PWC use emerged and gained popularity in park units before the National Park Service could initiate and complete a full evaluation of the possible impacts and ramifications. Although PWC use remains a relatively