

**List of Subjects in 29 CFR Part 1626**

Administrative practice and procedure, aged, equal employment opportunity.

Dated: December 10, 2003.

For the Commission.

**Cari M. Dominguez,**  
*Chair.*

■ For the reasons set forth in the preamble, EEOC amends 29 CFR part 1626 as follows:

**PART 1626—PROCEDURES—AGE DISCRIMINATION IN EMPLOYMENT ACT**

■ 1. The authority citation for part 1626 continues to read as follows:

**Authority:** Sec. 9, 81 Stat. 605, 29 U.S.C. 628; sec. 2, Reorg. Plan No. 1 of 1978, 3 CFR, 1978 Comp., p. 321.

**§ 1626.7 [Amended]**

■ 2. Section 1626.7 is amended by removing paragraph (a) and redesignating paragraphs (b) and (c) as paragraphs (a) and (b).

**§ 1626.9 [Amended]**

■ 3. Section 1626.9 is amended by removing the paragraph designation “(a)” and by removing paragraphs (b) and (c).

■ 4. Section 1626.12 is amended by adding a sentence at the end of the section to read as follows:

**§ 1626.12 Conciliation efforts pursuant to section 7(d) of the Act.**

\* \* \* Notification under this section is not a Notice of Dismissal or Termination under § 1626.17.

**§ 1626.15 [Amended]**

■ 5. Paragraph (b) of § 1626.15 is amended by:

- (a) removing the second sentence;
- (b) removing the words “Such notice will” and adding in their place, the words “Notice of commencement of conciliation will”; and
- (c) removing the last two sentences.

**§§ 1626.17, 1626.18, 1626.19 [Redesignated as §§ 1626.20, 1626.21 and 1626.22]**

■ 6. Sections 1626.17, 1626.18 and 1626.19 are redesignated as §§ 1626.20, 1626.21 and 1626.22.

■ 7. A new section 1626.17 is added to read as follows:

**§ 1626.17 Notice of Dismissal or Termination.**

(a) *Issuance of Notice of Dismissal or Termination.* (1) Where a charge filed with the Commission under the ADEA is dismissed or the Commission’s

proceedings are otherwise terminated, the Commission will issue a Notice of Dismissal or Termination on the charge as described in paragraph (c) of this section to the person(s) claiming to be aggrieved. In the case of a charge concerning more than one aggrieved person, the Commission will only issue a Notice of Dismissal or Termination when the charge is dismissed or proceedings are otherwise terminated as to all aggrieved persons.

(2) Where the charge has been filed under the ADEA and Title VII or the Americans with Disabilities Act (ADA), the Commission will issue a Notice of Dismissal or Termination under the ADEA at the same time it issues the Notice of Right to Sue under Title VII or the ADA.

(3) The issuance of a Notice of Dismissal or Termination does not preclude the Commission from offering such assistance to a person receiving the notice as the Commission deems necessary or appropriate. The issuance does not preclude or interfere with the Commission’s continuing right to investigate and litigate the same matter or any ADEA matter under its enforcement authority.

(b) *Delegation of Authority to Issue Notices of Dismissal or Termination.* The Commission hereby delegates authority to issue Notices of Dismissal or Termination, in accordance with this section, to: District Directors; Area Directors; Local Directors; the Director of the Office of Field Programs; the General Counsel; the Director of Field Management Programs, Office of Field Programs; or their designees.

(c) *Contents of the Notice of Dismissal or Termination.* The Notice of Dismissal or Termination shall include:

- (1) A copy of the charge;
- (2) Notification that the charge has been dismissed or the Commission’s proceedings have otherwise been terminated; and
- (3) Notification that the aggrieved person’s right to file a civil action against the respondent on the subject charge under the ADEA will expire 90 days after receipt of such notice.

■ 8. A new section 1626.18 is added to read as follows:

**§ 1626.18 Filing of private lawsuit.**

(a) An aggrieved person may file a civil action against the respondent named in the charge in either Federal or State court under section 7 of the ADEA.

(b) An aggrieved person whose claims are the subject of a timely pending charge may file a civil action at any time after 60 days have elapsed from the filing of the charge with the Commission (or as provided in

§ 1626.12) without waiting for a Notice of Dismissal or Termination to be issued.

(c) The right of an aggrieved person to file suit expires 90 days after receipt of the Notice of Dismissal or Termination or upon commencement of an action by the Commission to enforce the right of such person.

(d) If the Commission becomes aware that the aggrieved person whose claim is the subject of a pending ADEA charge has filed an ADEA lawsuit against the respondent named in the charge, it shall terminate further processing of the charge or portion of the charge affecting that person unless the District Director; Area Director; Local Director; Director of the Office of Field Programs; the General Counsel; the Director of Field Management Programs; or their designees determine at that time or at a later time that it would effectuate the purpose of the ADEA to further process the charge.

■ 9. A new section 1626.19 is added to read as follows:

**§ 1626.19 Filing of Commission lawsuit.**

The right of the Commission to file a civil action under the ADEA is not dependent on the filing of a charge and is not affected by the issuance of a Notice of Dismissal or Termination to any aggrieved person.

[FR Doc. 03–31042 Filed 12–16–03; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 117**

[CGD01–03–111]

**Drawbridge Operation Regulations: Niantic River, CT**

**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 Amtrak Bridge across the Niantic River, mile 0.0, at Niantic, Connecticut. This temporary deviation will allow the bridge to remain in the closed position from 7 a.m. on January 2, 2004 through 8 p.m. on February 15, 2004. This temporary deviation is necessary to facilitate structural repairs at the bridge.

**DATES:** This deviation is effective from January 2, 2004 through February 15, 2004.

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, One South Street, New York, New York, 10004, between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (212) 668-7165. The First Coast Guard District Bridge Branch maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph Schmied, Project Officer, First Coast Guard District Bridge Branch, (212) 668-7165.

**SUPPLEMENTARY INFORMATION:** The vertical clearance under the Amtrak Bridge in the closed position is 11 feet at mean high water and 14 feet at mean low water. The existing regulations are listed at 33 CFR 117.215(a).

The bridge owner, National Railroad Passenger Corporation (Amtrak), requested a temporary deviation from the Drawbridge Operation Regulations to facilitate scheduled structural maintenance, replacement of flange angles and tread plates, at the bridge.

The Coast Guard coordinated this project with the mariners who normally use this waterway to minimize the impact on the marine transportation system.

Under this temporary deviation the Amtrak Bridge, mile 0.0, across the Niantic River, may remain in the closed position from 7 a.m. on January 2, 2004 through 8 p.m. on February 15, 2004. Vessels that can pass under the bridge without a bridge opening may do so at all times.

This deviation from the 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: December 9, 2003.

**Vivien S. Crea,**

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

[FR Doc. 03-31099 Filed 12-16-03; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 03-027]

RIN 1625-AA00

#### Security Zone; Suisun Bay, Concord, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone in the navigable waters of the United States adjacent to the Military Ocean Terminal Concord (MOTCO), California (formerly United States Naval Weapons Center Concord, California). In light of recent terrorist actions against the United States, the security zone is necessary to ensure the safe onloading and offloading of military equipment and to ensure the safety of the nearby public from potential subversive acts. The security zone will prohibit all persons and vessels from entering, transiting through or anchoring within a portion of the Suisun Bay surrounding the MOTCO unless authorized by the Captain of the Port (COTP) or his designated representative.

**DATES:** This rule is effective from 7 a.m. p.s.t. on December 8, 2003, to 11:59 p.m. p.s.t. on December 19, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [COTP San Francisco Bay 03-027] 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, 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), the Coast Guard finds that good cause exists for not publishing a 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** as the schedule and other logistical details were not known until a date fewer than 30 days prior to the start date of the military operation. Publishing a NPRM and delaying this rule's effective date would be contrary to the public interest since the safety and security of the people, ports, waterways, and properties of the Port Chicago and Suisun Bay areas would be jeopardized without the protection afforded by this security zone. Any delay in implementing this rule would be contrary to the public interest since immediate action is necessary to ensure the protection of all cargo vessels, their crews, the public and national security.

#### 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 the conflict in Iraq have made it prudent for U.S. ports to be on a higher state of alert because Al-Qaeda and other organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

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 as evidenced 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).

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, United States Army officials