

Chapter 68. Ship Channel Security Districts. Section 68.051

(b) This chapter applies to the following types of facilities in the district:

(1) a chemical manufacturers' association facility: "Chemical manufacturers' association facility" means a facility owned by a member of a chemical manufacturers' association. – Section 68.051(a)(2)

"Chemical manufacturers' association" means an association of chemical manufacturers, refiners, and supporting distribution and terminal facility managers that operate in a district. – Section 68.051(a)(1)

"The East Harris County Manufacturers Association is an alliance of more than 125 chemical manufacturers, refiners and supporting distribution facilities in Baytown, Deer Park, Houston, La Porte, North Channel and Pasadena."

(2) a mutual aid organization facility: "Mutual aid organization" means an organization that operates in a district and whose primary purpose is the promotion of social welfare by providing assistance for the common good and general welfare to and within the communities of its members for emergency fire protection and other public safety matters; and whose members include various industries and governmental entities with the resources required to participate in those activities. – Section 68.051(a)(3)

(3) a facility as defined in 46 U.S.C. Section 70101: "Facility" means any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the United States.

(4) a facility described by 33 C.F.R. Section 105.105(a)

1. Applies to the owner or operator of any U.S. Facility subject to 33 CFR parts 126 (Handling of Dangerous Cargo), 127 (Waterfront Facilities Handling Liquefied Natural Gas and Liquefied Hazardous Gas), or 154 (Facilities Transferring Oil or Hazardous Material in Bulk);

2. Facility that receives vessels certificated to carry more than 150 passengers, except those vessels not carrying and not embarking or disembarking passengers at the facility;

3. Facility that receives vessels subject to the International Convention for Safety of Life at Sea, 1974, chapter XI (Special Measures To Enhance Maritime Safety);

4. Facility that receives foreign cargo vessels greater than 100 gross register tons;

5. Facility that receives U.S. cargo vessels, greater than 100 gross

register tons, subject to 46 CFR chapter I, subchapter I (Cargo And Miscellaneous Vessels), except for those facilities that receive only commercial fishing vessels inspected under 46 CFR part 105 (Commercial Fishing Vessels Dispensing Petroleum Products); or

6. Barge fleeting facility that receives barges carrying, in bulk, cargoes regulated by 46 CFR chapter I, subchapters D (Tank Vessels) or O (Certain Bulk Dangerous Cargoes), or Certain Dangerous Cargoes.

(5) a facility subject to an area maritime transportation security plan under 46 U.S.C. Section 70103(b); Area Maritime Transportation Security Plans.—

(1) The Federal Maritime Security Coordinator designated under subsection (a)(2)(G) for an area shall—

(A) submit to the Secretary an Area Maritime Transportation Security Plan for the area; and

(B) solicit advice from the Area Security Advisory Committee required under this chapter, for the area to assure preplanning of joint deterrence efforts, including appropriate procedures for deterrence of a transportation security incident.

(2) The Area Maritime Transportation Security Plan for an area shall—

(A) when implemented in conjunction with the National Maritime Transportation Security Plan, be adequate to deter a transportation security incident in or near the area to the maximum extent practicable;

(B) describe the area and infrastructure covered by the plan, including the areas of population or special economic, environmental, or national security importance that might be damaged by a transportation security incident;

(C) describe in detail how the plan is integrated with other Area Maritime Transportation Security Plans, and with facility security plans and vessel security plans under this section;

(D) include consultation and coordination with the Department of Defense on matters relating to Department of Defense facilities and vessels;

(E) include any other information the Secretary requires;

(F) include a salvage response plan—

(i) to identify salvage equipment capable of restoring

operational trade capacity; and

(ii) to ensure that the waterways are cleared and the flow of commerce through United States ports is reestablished as efficiently and quickly as possible after a maritime transportation security incident; and

(G) be updated at least every 5 years by the Federal Maritime Security Coordinator.

(3) The Secretary shall—

(A) review and approve Area Maritime Transportation Security Plans under this subsection; and

(B) periodically review previously approved Area Maritime Transportation Security Plans.

(4) In security zones designated by the Secretary in each Area Maritime Transportation Security Plan, the Secretary shall consider—

(A) the use of public/private partnerships to enforce security within the security zones, shoreside protection alternatives, and the environmental, public safety, and relative effectiveness of such alternatives; and

(B) technological means of enhancing the security zones of port, territorial waters, and waterways of the United States.

(6) a facility subject to 40 C.F.R. Part 112; Oil Pollution Prevention (a)(1)

This part establishes procedures, methods, equipment, and other requirements to prevent the discharge of oil from non-transportation-related onshore and offshore facilities into or upon the navigable waters of the United States or adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Magnuson Fishery Conservation and Management Act).

(7) a general shipyard facility as defined by 46 C.F.R. Section 298.2:

General Shipyard Facility include any structure or appurtenance designed for the construction, repair, rehabilitation, refurbishment, or rebuilding of any Vessel, including graving docks, building ways, ship lifts, wharves and pier cranes. For operations on land, the facility may also have the land necessary for any structures or appurtenances and equipment necessary for the performance of the above mentioned functions. For operations other than on land, a general shipyard facility includes any Vessel, floating dry dock, or barge constructed in the United

States.

8) a facility included in one or more of the following categories and codes of the 2007 North American Industry Classification System:

(A) crude petroleum and natural gas extraction, 211111;

(B) petroleum refineries, 324110;

(C) petrochemical manufacturing, 3251xx;

(D) petroleum lubricating oil and grease manufacturing, 324191;

(E) all other petroleum and coal products manufacturing, 324199;

(F) all other chemical manufacturing, 325998;

(G) petroleum bulk stations and terminals, 424710;

(H) plastics, chemical, and petroleum wholesalers, 424610, 424690, and 424720;

(I) transportation, including rail, water, and road transportation and pipelines, 482111-482112 (Line-Haul and Short Haul Railroads), 483111-483114 (Deep Sea Freight Transportation, Deep Sea Passenger Transportation, Coastal and Great Lakes Freight Transportation, Coastal and Great Lakes Passenger Transportation), 484110-481230 (General Freight Trucking, Local, General Freight Trucking, Long-Distance, Truckload, General Freight Trucking, Long-Distance, Less Than Truckload, Specialized Freight (except Used Goods) Trucking, Local, Specialized Freight (except Used Goods) Trucking, Long-Distance, 486110-486990 (Crude Oil, Natural Gas, Refined Petroleum Products, and All Other Pipeline Transportation), 488210 (Support activities for Rail Transportation), 488390 (Other Support Activities for Water Transportation), and 488490 (Other Support Activities for Road Transportation);

(J) port and harbor operations, 488310;

(K) marine cargo handling, 488320;

(L) warehousing and storage, including general, refrigerated, farm and other, 493110, 493120, 493130, 493190; and

(M) deep sea and coastal freight and passenger transportation, 483111-483114; and

(9) a facility described in Subsection (c).

(c) Except as provided by Subsection (d), after the district is created, the commissioners court that created the district by order may provide for this chapter to apply to any other type of facility that the district by petition requests the court to add.

(d) This chapter does not apply to the following facilities:

(1) a residential property, including a single-family or multifamily residence;

(2) a retail or service business that is not a facility as defined by 46 U.S.C. Section 70101 *“Facility” means any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the United States;*

(3) a public access facility as defined by 33 C.F.R. Section 101.105 *Public access facility means a facility—*

(1) That is used by the public primarily for purposes such as recreation, entertainment, retail, or tourism, and not for receiving vessels subject to part 104;

(2) That has minimal infrastructure for servicing vessels subject to part 104 of this chapter; and

(3) That receives only:

(i) Vessels not subject to part 104 of this chapter, or

(ii) Passenger vessels, except:

(A) Ferries certificated to carry vehicles;

(B) Cruise ships; or

(C) Passenger vessels subject to SOLAS Chapter XI-1 or SOLAS Chapter XI-2.;

or

(4) a facility that is not listed under Subsection (b) and that is owned by:

(A) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(B) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(C) a telecommunications provider as defined by Section 51.002, Utilities Code; or

D) a person who provides to the public cable television or advanced telecommunications services.