

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD07-05-042]

RIN 1625-AA87

#### Security Zone Regulations; St. Croix, United States Virgin Islands

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone in the vicinity of the HOVENSA refinery facility in St. Croix, U.S. Virgin Islands. This security zone extends approximately 2 miles seaward from the HOVENSA facility waterfront area along the south coast of the island of St. Croix, U.S. Virgin Islands. This security zone is needed for national security reasons to protect the public and the HOVENSA facility from potential subversive acts. Vessels without scheduled arrivals must receive permission from the U.S. Coast Guard Captain of the Port San Juan prior to entering this temporary security zone.

**DATES:** This rule is effective from May 15, 2005, until November 15, 2005.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket [CGD07-05-042] and are available for inspection or copying at Sector San Juan, 5 Calle La Puntilla, San Juan, Puerto Rico between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Katuska Pabon, Sector San Juan, Puerto Rico at (787) 729-2376.

#### 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 an NPRM. Publishing an NPRM and delaying the rule's effective date would be contrary to the public interest. Immediate action is needed to protect the public, ports and waterways of the United States from potential subversive acts against the HOVENSA facility.

For the same reasons, 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**. Similar regulations were published in the **Federal Register** on January 17, 2002 (67 FR 2332), September 13, 2002

(67 FR 57952), April 28, 2003 (68 FR 22296), July 10, 2003 (68 FR 41081), February 10, 2004 (69 FR 6150), May 21, 2004 (69 FR 29232), and January 19, 2005 (70 FR 2950). We did not receive any comments on these regulations.

The Captain of the Port San Juan has determined that due to the continued risk, the need for the security zone persists. On February 10, 2005, the Coast Guard published a notice of proposed rulemaking to make this security zone permanent (70 FR 7065). While the Coast Guard intends to publish a final rule to ensure the security of this waterfront facility, this temporary rule is required in the interim.

##### Background and Purpose

The Coast Guard recognizes that subversive activity could be launched by vessels or persons in close proximity to the HOVENSA refinery on St. Croix, USVI, against tank vessels and the waterfront facility. Given the highly volatile nature of the substances stored at the HOVENSA facility, this security zone is necessary to decrease the risk of subversive activity launched against the HOVENSA facility. The Captain of the Port San Juan is reducing this risk by prohibiting all vessels without a scheduled arrival from coming within approximately 2 miles of the HOVENSA facility, unless specifically permitted by the Captain of the Port San Juan or a designated representative. The Captain of the Port San Juan can be reached on VHF Marine Band Radio, Channel 16 (156.8 Mhz), or by calling (787) 289-2040, 24-hours-a-day, 7-days-a-week. The HOVENSA Facility Port Captain can be reached on VHF Marine Band Radio channel 11 (156.6 Mhz) or by calling (340) 692-3488, 24-hours-a-day, 7-days-a-week.

##### Discussion of Rule

The temporary security zone around the HOVENSA facility encompasses all waters within a line connecting the following coordinates: 17°41'31" N, 64°45'09" W, to 17°39'36" N, 64°44'12" W, to 17°40'00" N, 64°43'36" W, to 17°41'48" N, 64°44'25" W, and back to the beginning point. All vessels without a scheduled arrival into the HOVENSA facility are prohibited from coming within this security zone-that extends approximately 2 mile seaward from the facility, unless specifically permitted by the Captain of the Port San Juan or a designated representative.

##### 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). This security zone covers an area that is not typically used by commercial vessel traffic, including fishermen, and vessels may be allowed to enter the zone on a case by case basis with the permission of the Captain of the Port San Juan or a designated representative.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic effect upon 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 may be small entities: owners of small charter fishing or diving operations that may operate near the HOVENSA facility. This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This zone covers an area that is not typically used by commercial fishermen, and vessels may be allowed to enter the zone on a case-by-case basis with the permission of the Captain of the Port San Juan.

##### 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 this rule so that they can 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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 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.

#### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, 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. Under figure 2-1, paragraph (34)(g), of the Instruction, an Environmental Analysis Check List and a Categorical Exclusion Determination (CED) are not required for this rule.

#### 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. From May 15, 2005, to November 15, 2005, add a new § 165.T07-042 to read as follows:

#### § 165.T07-042 Security Zone; HOVENSA Refinery, St. Croix, U.S. Virgin Islands.

(a) *Location.* The following area is a security zone: All waters from surface to bottom, encompassed within a line connecting the following coordinates: 17°41'31" N, 64°45'09" W, to 17°39'36" N, 64°44'12" W, to 17°40'00" N, 64°43'36" W, to 17°41'48" N, 64°44'25" W, and then back to the point of origin.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, with the exception of vessels that have an arrival scheduled with the HOVENSA Facility, no vessel may enter the regulated area unless specifically authorized by the Captain of the Port (COTP) San Juan or a Coast Guard commissioned, warrant, or petty officer designated by COTP San Juan. The Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (156.8 Mhz). The Captain of the Port San Juan can be reached on VHF Marine Band Radio, Channel 16 (156.8 Mhz) or by calling (787) 289-2040, 24-hours-a-day, 7-days-a-week. The HOVENSA Facility Port Captain can be reached on VHF Marine Band Radio channel 11 (156.6 Mhz) or by calling (340) 692-3488, 24-hours-a-day, 7-days-a-week.

(c) *Dates.* This section is effective from May 15, 2005, until November 15, 2005.

**D.P. Rudolph, Commander,**

*U.S. Coast Guard, Captain of the Port, San Juan.*

[FR Doc. 05–10046 Filed 5–19–05; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD13–05–015]

RIN 1625–AA00

#### Safety Zones: Columbia River, Astoria, OR

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement.

**SUMMARY:** The Captain of the Port, Portland, Oregon, will enforce the safety zone established for the Astoria Regatta on the waters of the Columbia River. This action is being taken to safeguard watercraft and their occupants from safety hazards associated with the display of fireworks. Entry into these safety zones is prohibited unless authorized by the Captain of the Port.

**DATES:** This rule will be enforced on August 13, 2005, from 9:30 p.m. to 10:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer Charity Keuter, c/o Captain of the Port Portland, OR, 6767 North Basin Avenue, Portland, OR 97217 at (503) 240–2590 to obtain information concerning enforcement of this rule.

**SUPPLEMENTARY INFORMATION:** On July 17, 2003, the Coast Guard published a final rule (68 FR 42289) establishing regulations in 33 CFR 165.1316 to safeguard watercraft and their occupants on the waters of the Columbia River from safety hazards associated with the display of fireworks within the Area of Responsibility of the Captain of the Port, Portland, Oregon. The Coast Guard is issuing notice that the Captain of the Port, Portland, Oregon will enforce on August 13, 2005, from 9:30 p.m. to 10:30 p.m. the safety zone established on the waters of the Columbia River in the vicinity of Astoria, Oregon and published in 33 CFR 165.1316. Entry into this safety zone is prohibited unless otherwise exempted or excluded under the final rule or unless authorized by the Captain of the Port or his designee. The Captain of the Port may be assisted by other

Federal, State, or local agencies in enforcing these safety zones.

Dated: May 11, 2005.

**Paul D. Jewell,**

*Captain, U.S. Coast Guard, Captain of the Port, Portland, OR.*

[FR Doc. 05–10140 Filed 5–19–05; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD13–05–016]

RIN 1625–AA00

#### Safety Zones: Fort Vancouver Fireworks Display, Columbia River, Vancouver, WA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement.

**SUMMARY:** The Captain of the Port, Portland, Oregon, will enforce the safety zone established for the Fort Vancouver Fireworks Display, Vancouver, WA on the waters of the Columbia River on July 4, 2005. The Captain of the Port, Portland, Oregon, is taking this action to safeguard watercraft and their occupants from safety hazards associated with the display of fireworks. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

**DATES:** This rule will be enforced on July 4, 2005, from 9:30 p.m. to 11 p.m.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer Charity Keuter, c/o Captain of the Port Portland, OR 6767 North Basin Avenue, Portland, OR 97217 at (503) 240–2590 to obtain information concerning enforcement of this rule.

**SUPPLEMENTARY INFORMATION:** On May 28, 2003 the Coast Guard published a final rule (68 FR 31609) establishing regulations in 33 CFR 165.1314 to safeguard watercraft and their occupants on the waters of the Columbia River in the vicinity of Vancouver, WA from safety hazards associated with the display of fireworks within the Area of Responsibility of the Captain of the Port, Portland, Oregon. The Coast Guard is issuing notice that the Captain of the Port, Portland, Oregon on July 4, 2005, from 9:30 p.m. to 11 p.m. will enforce the established safety zones on the waters of the Columbia River between the Interstate 5 Bridge and channel buoy RG F1(1+2)R 6s published at 33 CFR 165.1314. Entry into this safety zone is prohibited unless otherwise exempted or excluded under the final rule or

unless authorized by the Captain of the Port or his designee. The Captain of the Port may be assisted by other Federal, State, or local agencies in enforcing these safety zones.

Dated: May 11, 2005.

**Paul D. Jewell,**

*Captain, U.S. Coast Guard, Captain of the Port, Portland, OR.*

[FR Doc. 05–10141 Filed 5–12–05; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R05–OAR–2004–MI–0004; FRL–7915–8]

#### Approval and Promulgation of Maintenance Plans; Michigan; Southeast Michigan Ozone Maintenance Plan Update to the State Implementation Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a December 19, 2003, request from Michigan to revise the ground level ozone State Implementation Plan (SIP) for the Southeast Michigan area. EPA originally approved the Southeast Michigan ozone maintenance plan on April 6, 1995. This action approves an update to the plan prepared by Michigan to maintain the 1-hour national ambient air quality standard (NAAQS) for ozone in the Southeast Michigan maintenance area through the year 2015. This update is required by the Clean Air Act (CAA).

**DATES:** This “direct final” rule is effective July 19, 2005, unless EPA receives written adverse comment by June 20, 2005. If written adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit comments, identified by Regional Material in EDocket (RME) ID No. R05–OAR–2004–MI–0004, by one of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

*Agency Web site:* <http://docket.epa.gov/rmepub/>. RME, EPA’s electronic public docket and comments system, is EPA’s preferred method for receiving comments. Once in the system, select “quick search,” then key in the appropriate RME Docket identification number. Follow the