

authority delegated to the Commissioner of Food and Drugs.

Dated: December 21, 2001.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 01-32086 Filed 12-28-01; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-01-207]

RIN 2115-AA97

#### **Security Zone: Seabrook Nuclear Power Plant, Seabrook, New Hampshire**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone around the Seabrook Nuclear Power Plant in Seabrook, New Hampshire. The security zone will close off public access to all land and waters within 250 yards of the waterside property boundary of Seabrook Nuclear Power Plant. This action is necessary to ensure public safety and prevent sabotage or terrorist acts. Entry into this security zone is prohibited unless authorized by the Captain of the Port, Portland, Maine.

**DATES:** This rule is effective from December 7, 2001 until June 15, 2002.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD01-01-207 and are available for inspection or copying at Marine Safety Office Portland, Maine, 103 Commercial Street, Portland, Maine between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) W. W. Gough, Port Operations Department, Captain of the Port, Portland, Maine at (207) 780-3251.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory History**

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. On September 11, 2001, two commercial aircraft were hijacked from Logan Airport in Boston, Massachusetts and flown into the World Trade Center in New York, New York inflicting catastrophic human casualties and

property damage. National security and intelligence officials warn that future terrorist attacks against civilian targets may be anticipated. The Seabrook Nuclear Power Plant is open to possible attack from waters adjacent to nearby Hampton Harbor. Due to the potential catastrophic effect an exposure of radiation from the nuclear processes at the plant would have on the surrounding area, this rulemaking is urgently required to prevent potential future terrorist strikes against the Seabrook Nuclear Power Plant. The delay inherent in the NPRM process is contrary to the public interest insofar as it may render people and facilities within and adjacent to the Seabrook Nuclear Power Plant property vulnerable to subversive activity, sabotage or terrorist attack.

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 measures implemented in this rule are intended to prevent possible terrorist attacks against the Seabrook Nuclear Power Plant and are needed to protect the facility, persons at the facility, the public and the surrounding community from potential sabotage or other subversive activity, sabotage and terrorist attacks, either from the water or by access to the facility by utilizing public trust lands between the low water and high water tide lines. Immediate action is required to accomplish these objectives. Any delay in the effective date of this rule is impracticable and contrary to the public interest.

This zone should have minimal impact on the users of Hampton Harbor, New Hampshire and the surrounding waters as vessels are able to pass safely outside the zone. Public notifications will be made to the maritime community via local notice to mariners and signs posted to inform the public of the boundaries of the zone.

##### **Background and Purpose**

In light of terrorist attacks on New York City and Washington D.C. on September 11, 2001 a security zone is being established to safeguard the Seabrook Nuclear Power Plant, persons at the facility, the public and surrounding communities from sabotage or other subversive acts, accidents, or other events of a similar nature. The Seabrook Nuclear Power Plant presents a possible target of terrorist attack due to the catastrophic impact a release of nuclear radiation would have on the surrounding area. This security zone prohibits entry into or movement within the specified areas.

This rulemaking establishes a security zone in all land and waters within 250 yards of the waterside property boundary of Seabrook Nuclear Power Plant in Seabrook, New Hampshire bounded by a line beginning at position 42°53'58" N, 070°51'06" W, then running along the Seabrook Nuclear Power Plant property boundaries, ending at position 42°53'46" N, 070°51'06" W. The area along the Plant property boundaries is an area delineated by a fence, and runs east around the easternmost point of the property boundaries of Seabrook Nuclear Power Plant, then turns west to the point of termination. This security zone also closes all land within the zone to prevent access along areas traditionally reserved for public use between the mean low water tide line and the mean high water tide line. This rulemaking is necessary to provide complete protection of the waterfront areas of the Seabrook Nuclear Power Plant.

No person or vessel may enter or remain in the prescribed security zone at any time without the permission of the Captain of the Port. Each person or vessel in a security zone shall obey any direction or order of the Captain of the Port. The Captain of the Port may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from a security zone. No person may board, take or place any article or thing on board any vessel or waterfront facility in a security zone without permission of the Captain of the Port.

##### **Regulatory Evaluation**

This temporary final rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 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 Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

The effect of this regulation will not be significant for several reasons: The protected area is not regularly navigated; there is ample room for vessels to navigate around the security zone; notifications will be made to the local maritime community; and signs

will be posted informing the public of the boundaries of the zone.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard 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. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Hampton Harbor. For the reasons enumerated in the Regulatory Evaluation section above, this security zone will not have a significant economic impact on a substantial number of small entities.

### Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104-121], the Coast Guard wants to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please call Lieutenant (Junior Grade) Wade W. Gough, Marine Safety Office Portland, Maine, at (207) 780-3251. 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 Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

### Collection of Information

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

### Federalism

The Coast Guard has analyzed this rule under Executive Order 13132 and has determined that this rule does not have implications for federalism under that order.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that require unfunded mandates. An Unfunded Mandate is a regulation that requires a state, local or tribal government or the private sector to incur costs without the Federal government having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

### 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 section 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity and reduce burden.

### Protection of Children

The Coast Guard has 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 concern 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. A rule with tribal implications has 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.

### Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2-1, paragraph 34 (g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination"

is available in the docket where indicated under **ADDRESSES**.

### 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.

### List of Subjects in 33 CFR Part 165

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

For the reasons set out 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, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01-207 to read as follows:

#### § 165.T01-207 Security Zone: Seabrook Nuclear Power Plant, Seabrook, New Hampshire.

(a) *Location.* The following area is a security zone: All land and waters within 250 yards of the waterside property boundary of Seabrook Nuclear Power Plant identified as follows: beginning at position 42°53'58" N, 070°51'06" W then running along the property boundaries of Seabrook Nuclear Power Plant to its position 42°53'46" N, 070°51'06" W.

(b) *Effective dates.* This section is effective from December 7, 2001 until June 15, 2002.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.33 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, Portland, Maine.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port, Portland, Maine or designated on-scene U. S. Coast Guard patrol personnel. On-

scene Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

(3) No person may enter the waters within the boundaries of the security zone unless previously authorized by the Captain of the Port, Portland, Maine or his authorized patrol representative.

Dated: December 7, 2001.

**M. P. O'Malley,**

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

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-301202; FRL-6817-1]

RIN 2070-AB78

### Clethodim; Pesticide Tolerances for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for combined residues of clethodim and its metabolites and their sulphoxides and sulphones in or on tall fescue forage and tall fescue hay. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on tall fescue. This regulation establishes a maximum permissible level for residues of clethodim in these food commodities. The tolerances will expire and are revoked on June 30, 2004.

**DATES:** This regulation is effective December 31, 2001. Objections and requests for hearings, identified by docket control number OPP-301202, must be received by EPA on or before March 1, 2002.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301202 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Barbara Madden, Registration

Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305-6463; and e-mail address: Madden.Barbara@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311  32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301202. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall # 2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

##### II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues of the herbicide clethodim, [(E)- $\pm$ ]-2-[1-[[[3-chloro-2-propenyl]oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one] and its metabolites containing the 5-(2-ethylthiopropyl)cyclohexene-3-one and 5-(2-ethylthiopropyl)-5-hydroxycyclohexene-3-one moieties and their sulphoxides and sulphones, expressed as clethodim, in or on tall fescue forage at 10 parts per million (ppm) and tall fescue hay at 20 ppm. These tolerances will expire and are revoked on June 30, 2004. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the