

Environment

We have considered the environmental impact of this rule 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 for inspection or copying 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. 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. Revise temporary § 165.T08-002 paragraphs (b) and (d) to read as follows:

§ 165.T08-002 Security Zone; Missouri River, Mile Marker 532.9 to 532.5, Brownville, Nebraska.

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(b) *Effective dates.* This section is effective from 12 p.m. on January 7, 2002 through 8 a.m. on October 15, 2002.

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(d) *Regulations.* (1) Entry into this security zone by persons or vessels is prohibited unless authorized by the Coast Guard Captain of the Port St. Louis or his designated representative.

(2) All vessels that can safely navigate outside of the channel are prohibited from entering the security zone without the express permission of the Captain of the Port St. Louis or his designated representative. Deeper draft vessels that are required to use the channel for safe navigation are authorized entry into the zone but must remain within the channel unless expressly authorized by the Captain of the Port St. Louis or his designated representative.

(3) Vessels or persons requiring permission to enter into the security zone must contact the Captain of the Port, St. Louis at telephone number (314) 406-4629 or Marine Safety Detachment Quad Cities at telephone number (309) 782-0627 or Coast Guard Group Upper Mississippi River at telephone number (319) 524-7511 or on

VHF marine channel 16 in order to seek permission to enter the security zones. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port, St. Louis or his designated representative.

(4) Designated representatives are commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: June 7, 2002.

E.A. Washburn,

Commander, U.S. Coast Guard, Captain of the Port St. Louis.

[FR Doc. 02-14964 Filed 6-12-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[CGD07-02-052]

RIN 2115-AA97

Security Zone; Regulations; St. Croix, U.S. Virgin Islands

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary fixed security zone around all commercial tank and freight vessels moored at every dock at the HOVENSA refinery at St. Croix, U.S. Virgin Islands. All persons aboard commercial tank and freight vessels moored at the HOVENSA docks must remain on board for the duration of the port call unless escorted by designated HOVENSA personnel or specifically permitted to disembark by the U.S. Coast Guard Captain of the Port San Juan. This security zone is needed for national security reasons to protect the public and port of HOVENSA from potential subversive acts. This security zone is similar to the temporary rule removed on May 9, 2002.

DATES: This rule becomes effective at 5 a.m. on May 25, 2002 and will terminate at 11:59 p.m. on October 31, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [CGD 07-02-052] and are available for inspection or copying at Marine Safety Office San Juan, RODVAL Bldg, San Martin St. #90 Ste 400, Guaynabo, PR 00968, between 7 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Chip Lopez, Marine Safety

Office San Juan, Puerto Rico at (787) 706-2444.

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. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued, and delaying the rule's effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States.

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**. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restriction.

Background and Purpose

Due to the highly volatile nature of the substances stored at the HOVENSA facility, there is a risk that subversive activity could be launched by persons aboard commercial tank and freight vessels calling at the HOVENSA facility in St Croix, U.S. Virgin Islands. The Captain of the Port San Juan is reducing this risk by prohibiting all persons aboard these vessels from disembarking while moored at the HOVENSA facility unless escorted by designated HOVENSA personnel or specifically permitted by the Captain of the Port San Juan. HOVENSA security personnel, in conjunction with local police department personnel, will be present to enforce this security zone.

A security zone regulation for the same location, with the same regulation, was published in the **Federal Register** on September 28, 2001 (66 FR 49534). That rule was extended twice by a temporary rule issued in October 2001 (that was sent to Washington, DC for publication in the **Federal Register** but was delayed in the mail [CGD07-01-125; 67 FR 9194, 9197, February 28, 2002]), and another issued in January 2002 (67 FR 4911, February 1, 2002). However, this rule was removed in a final rule published in the **Federal Register** on May 9, 2002 (67 FR 31128) because the Captain of the Port determined there was no longer any need for this rule.

The Captain of the Port San Juan has identified the need to reinstate a security zone for national security reasons and to protect the public and the port of HOVENSA from potential subversive acts. The Captain of the Port

believes that additional temporary security procedures are needed to supplement the existing HOVENSA security procedures to protect this facility.

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 Transportation (DOT) (44 FR 11040; February 26, 1979) because this rule is in effect for a limited time and crewmembers may be allowed to disembark when escorted by designated HOVENSA security or authorized by the Captain of the Port of San Juan.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. “Small entities” include 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 because persons may be allowed to disembark the vessels on a case-by-case basis with the authorization of the Captain of the Port and this temporary rule is only in effect for a limited time.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the 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 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 requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

A rule has implication 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.

Environmental

The Coast Guard has considered the environmental impact of this rule and will prepare a categorical exclusion as per Figure 2–1, paragraph 34(g) of the Coast Guard NEPA Implementing Procedures, Commandant Instruction M16475.1D. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

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 relationships 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 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), Reports 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. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–052 is added to read as follows:

§ 165.T07–052 Security Zone; HOVENSA Refinery, St. Croix, U.S. Virgin Islands.

(a) *Regulated area.* A temporary fixed security zone is established 20 yards around all commercial tank and freight vessels moored at every dock at the HOVENSA refinery at St Croix, U. S. Virgin Islands.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, all persons aboard commercial

tank and freight vessels moored at the docks in the regulated area must remain on board for the duration of the port call unless escorted by designated HOVENSA personnel or specifically authorized by the Captain of the Port San Juan, or a Coast Guard commissioned, warrant, or petty officer designated by him. 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 (157.1 Mhz).

(c) *Dates.* This section becomes effective at 5 a.m. on May 25, 2002, and will terminate at 11:59 p.m. on October 31, 2002.

Dated: May 24, 2002.

J.A. Servidio,

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

[FR Doc. 02-14971 Filed 6-12-02; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Docket No. 95-116; FCC 02-16]

Telephone Number Portability, Memorandum Opinion and Order on Reconsideration and Order on Application for Review

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) addresses issues raised in petitions for reconsideration and clarification of the Commission's *Third Report and Order* on long-term number portability (LNP) and affirms the Common Carrier Bureau's *Cost Classification Order*. The document clarifies and affirms matters related to the recovery of carrier costs for LNP, which were decided in two prior *Orders*.

DATES: The rules adopted herein shall be effective July 15, 2002, except for § 52.33(a)(3), which contains information collection requirements that have not been approved by the Office of Management and Budget. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Margaret Dailey (202) 418-2396, fax (202) 418-1567, or mdailey@fcc.gov. The address is: Pricing Policy Division, Wireline Competition Bureau, Federal

Communications Commission, The Portals, 445 12th Street, SW, Suite 5-A207, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration and Order on Application for Review in CC Docket No. 95-116, FCC No. 02-16, in the matter of Telephone Number Portability, adopted January 23, 2002, and released February 15, 2002. The full text of this item is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC 20554, telephone (202) 863-2893, facsimile (202) 863-2898, or via e-mail qualexint@aol.com

Synopsis of the Order on Reconsideration and Order on Application for Review

Section 251(b)(2) of the Communications Act of 1934, as amended (the Act), seeks to remove one barrier to competition by requiring all local exchange carriers (LECs) "to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." On May 5, 1998, the Commission adopted the *Third Report and Order* in this docket, implementing section 251(e)(2) of the Act with regard to the costs of providing long-term number portability (LNP). In the *Third Report and Order*, 63 FR 35150, June 29, 1998, the Commission concluded that incumbent LECs may recover their carrier-specific costs directly related to providing LNP on a competitively neutral basis, through two federal charges: (1) A monthly number-portability charge applicable to end users; and (2) a LNP query-service charge, applicable to carriers on whose behalf the LEC performs queries. On December 14, 1998, pursuant to authority delegated to it in the *Third Report and Order*, the Common Carrier Bureau issued the *Cost Classification Order*, 64 FR 2493, Jan. 14, 1999, which specifically addressed issues related to the determination of costs eligible for cost recovery, the apportionment of costs between portability and non-portability services, and apportionment between end-user charges and query service charges. The Order on Reconsideration and Order on Application for Review (Order) responds to three types of issues raised

in petitions for reconsideration and clarification and applications for review.

First, it clarifies numerous points made in the *Third Report and Order*. Specifically, it clarifies that: (1) The LNP administrator may assess shared costs on all eligible telecommunications carriers, not just carriers with existing LNP contracts; (2) incumbent LECs must allocate their shared costs between the query service and end-user charges; (3) carriers may not recover LNP costs from other carriers through interconnection charges or resale prices; (4) an incumbent LEC may assess the LNP end-user charge on resellers and purchasers of switching ports as long as it provides LNP functionality; (5) commercial mobile radio service providers are co-carriers, not end users, and, therefore, are not subject to an end-user charge; (6) carriers who offer Feature Group A access lines may assess an end-user surcharge on such lines; (7) small and rural incumbent LECs that do not yet provide LNP functionality but provide Extended Area Service (EAS) may recover their N minus one (N-1) query and LNP Administration costs through end-user charges; (8) incumbent LECs may not begin billing carriers for N-1 queries until a number has been ported from an NXX; and, (9) after the five-year recovery period for implementation costs of LNP through the end-user charge, any remaining costs will be treated as normal network costs.

Second, it affirms several issues decided in the *Third Report and Order* and the *Cost Classification Order*. Specifically, it affirms that: (1) The Commission has exclusive jurisdiction over the distribution and recovery of costs associated with intrastate and interstate number portability; (2) carriers not subject to rate-of-return regulation or price caps may recover their carrier-specific costs in any lawful manner consistent with their obligations under the Communications Act; (3) Centrex lines may be assessed one end-user LNP charge per line and a private branch exchange (PBX) trunk may be charged nine end-user LNP charges per PBX trunk; (4) Plexar may be assessed one LNP charge per line; (5) incumbent LECs may impose an end-user charge in service areas where the switch is number-portability-capable; (6) price cap LECs and rate-of-return LECs should treat the query services charge as a new service within the meaning of § 61.38 of the Commission's rules; (7) carriers may only recover carrier-specific costs directly related to the provision of LNP; (8) carriers must distinguish clearly