

bridge may remain closed to vessel traffic from February 3, 2003, through February 16, 2003. This temporary deviation is necessary to facilitate repairs at the bridge.

**DATES:** This deviation is effective from February 3, 2003, through February 16, 2003.

**FOR FURTHER INFORMATION CONTACT:** Joe Arca, Project Officer, First Coast Guard District, at (212) 668-7165.

**SUPPLEMENTARY INFORMATION:** The NJTRO railroad bridge has a vertical clearance in the closed position of 3 feet at mean high water and 8 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.709(b).

The bridge owner, New Jersey Transit Rail Operations, requested a temporary deviation from the drawbridge operation regulations to facilitate necessary maintenance, the refurbishment of the electrical controls, at the bridge. The bridge must remain in the closed position to perform these repairs. Vessels that can pass under the bridge without a bridge opening may do so at all times.

The waterway users who normally navigate Cheesequake Creek are predominantly recreational vessels. The proposed time period is historically the time period during which the fewest requests are made to open the bridge. The Coast Guard coordinated this closure with the mariners who normally use this waterway to help facilitate this necessary bridge repair and to minimize any disruption to the marine transportation system.

Under this temporary deviation the NJTRO railroad bridge may remain closed to vessel traffic from 8 a.m. on February 3, 2003, through 4 p.m. on February 16, 2003. The bridge shall open upon a four-hour advance notice for emergency situations.

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: January 24, 2003.

**Vivien S. Crea,**

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

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD05-03-007]

RIN 2115-AA97

#### Security Zone: Chesapeake Bay, Elizabeth River, Port of Hampton Roads, Virginia

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a security zone encompassing the grounds, piers and waterside of Norfolk International Terminals, Norfolk, Virginia. This zone is needed to prevent destruction, loss, or injury to military equipment and supplies while military operations are being carried out at Norfolk International Terminals. The Captain of the Port, Hampton Roads, Virginia will enforce a security zone consisting of the Norfolk International Terminals property enclosed within the perimeter fence and extending westerly from the shoreline at position 36°-56.001' North latitude, 76°-19.726' West longitude to a point at 36°-55.996' North latitude, 76°-20.152' West longitude, thence southerly to a point at 36°-54.762' North latitude, 76°-20.244' West longitude, then southeasterly to a point at 36°-53.854' North latitude, 76°-20.093' West longitude, then to the shoreline at position 36°-54.216' North latitude, 76°-19.481' West longitude. Individuals or vessels will not be allowed to enter the security zone at Norfolk International Terminals, except as permitted by the Captain of the Port or his designated representative. Movement of individuals and vehicles within Norfolk International Terminals may be restricted or prohibited.

**DATES:** This section is effective from 5 a.m. January 28, 2003 to 11:59 p.m. February 4, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05-03-007 and are available for inspection or copying at USCG Marine Safety Office Hampton Roads, 200 Granby Street, Suite 700, Norfolk, Virginia, 23510, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Mike Dolan, project officer, USCG Marine Safety Office Hampton Roads, telephone number (757) 668-5590.

**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, which would incorporate a comment period before a final rule was issued, would be contrary to the public interest since immediate action is needed to prevent destruction, loss or injury to resources involved in the military operations taking place in the vicinity of the Norfolk International Terminals.

### Discussion of Rule

A security zone is being established encompassing the grounds, piers and waterside of Norfolk International Terminals, Norfolk, Virginia from 5 a.m. January 28, 2003 until 11:59 p.m. February 4, 2003. This zone is needed to safeguard materials and persons in the vicinity from sabotage or other subversive acts, accidents, or other causes of a similar nature while military operations are being conducted. This security zone will encompass the Virginia Port Authority property known as Norfolk International Terminals, at 7737 Hampton Blvd, Norfolk, Virginia, 23505, including all property that is enclosed by the perimeter fence. The security zone will also include the waters of the Elizabeth River in proximity to Norfolk International Terminals, as bounded by a line extending westerly from the shoreline at position 36°-56.001' North latitude, 76°-19.726' West longitude to a point at 36°-55.996' North latitude, 76°-20.152' West longitude, thence southerly to a point at 36°-54.762' North latitude, 76°-20.244' West longitude, then southeasterly to a point at 36°-53.854' North latitude, 76°-20.093' West longitude, then to the shoreline at position 36°-54.216' North latitude, 76°-19.481' West longitude. The security zone will be enforced from 5 a.m. January 28, 2003 until 11:59 p.m. February 4, 2003. U.S. Coast Guard personnel will be on scene at all times while the security zone is in effect. U.S. Coast Guard vessels will enforce the security zone over the water whenever a vessel involved in the military operation is inside the security zone. Commercial and recreational boats will not be permitted to enter the security zone, except as permitted by the Captain of the Port.

### 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).

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) The COTP may authorize access to the security zone; (ii) the security zone will be in effect for a limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

#### 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 impact on a substantial number of small entities. The term "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. section 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 and operators of vessels intending to transit or anchor within the security zone established at Norfolk International Terminals, from 5 a.m. January 28, 2003 until 11:59 p.m. February 4, 2003.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered 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 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).

#### 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not affect 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. 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.

#### Environment

We have considered the environmental impact of this rule and concluded that under Figure 2–1, Paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. This rule is less than one week in duration.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and Record Keeping Requirements, Security measures, Vessels, 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. Add temporary § 165.T05–007, to read as follows:

#### **§ 165.T05–007 Security Zone: Chesapeake Bay, Elizabeth River, Port of Hampton Roads, Virginia.**

(a) Location: The following area is a security zone: The grounds of the Norfolk International Terminals, Norfolk, Virginia, enclosed by a fence surrounding the perimeter, and the waters of the Elizabeth River in proximity to Norfolk International Terminals, as encompassed by a line

drawn westerly from the shoreline at position 36°–56.001' North latitude, 76°–19.726' West longitude to a point at 36°–55.996' North latitude, 76°–20.152' West longitude, thence southerly to a point at 36°–54.762' North latitude, 76°–20.244' West longitude, then southeasterly to a point at 36°–53.854' North latitude, 76°–20.093' West longitude, then to the shoreline at position 36°–54.216' North latitude, 76°–19.481' West longitude.

(b) Definitions: The designated representative of the Captain of the Port is any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(1) The Captain of the Port, Hampton Roads and the Command Duty Officer at the Marine Safety Office, Norfolk, Virginia can be contacted at telephone Number (757) 668–5555.

(2) The Coast Guard vessels enforcing the security zone can be contacted on VHF—FM channels 13 and 16.

(c) Regulation: (1) In accordance with the general regulations in 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads, Virginia, or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this security zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(d) Effective date: This section is effective from 5 a.m. January 28, 2003 until 11:59 p.m. February 4, 2003.

Dated: January 28, 2003.

**Lawrence M. Brooks,**

*Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.*

[FR Doc. 03–2695 Filed 2–4–03; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP–2002–0308; FRL–7287–2]

### 6-Benzyladenine; Temporary Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a temporary exemption from the requirement of a tolerance for residues of the biochemical pesticide 6-benzyladenine on apples and pistachios when applied/used in accordance with the Experimental Use Permit 73049-EUP-2. Valent BioSciences Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting the temporary tolerance exemption. This regulation eliminates the need to establish a maximum permissible level for residues of 6-benzyladenine. The temporary tolerance exemption will expire on January 31, 2005.

**DATES:** This regulation is effective February 5, 2003. Objections and requests for hearings, identified by docket ID number OPP–2002–0308, must be received by EPA on or before April 7, 2003.

**ADDRESSES:** Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Denise Greenway, Biopesticides and Pollution Prevention Division (7511C), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8263; e-mail address: greenway.denise@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 entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)
- Antimicrobial pesticides (NAICS 32561)

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 this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining

whether this action might apply to certain entities. If you have any 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 Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0308. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under 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.

An electronic version of the public docket is available through EPA’s electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select “search,” then key in the appropriate docket ID number.

##### II. Background and Statutory Findings

In the **Federal Register** of March 28, 2002 (67 FR 14948) (FRL–6828–9), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide tolerance petition (PP 2G6378)