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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP Charleston 05-037]

RIN 1625-AA87

#### Security Zones; Charleston Harbor, Cooper River, SC

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is establishing a fixed security zone in the waters from the Don Holt, I-526 Bridge, on the Cooper River to the entrance of Foster Creek on the Cooper River, South Carolina. This security zone is necessary to protect the public and port from potential subversive acts during port embarkation operations. Vessels are prohibited from entering, transiting, anchoring, mooring, or loitering within this zone, unless specifically authorized by the Captain of the Port, Charleston, South Carolina or the Captain of the Port's designated representative.

**DATES:** This rule is effective on June 1, 2005.

**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 docket [COTP Charleston 05-037] and are available for inspection or copying at the Marine Safety Office Charleston between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

LTJG Matthew Meskun, Chief of Waterways Management Division at 843-720-3240.

**SUPPLEMENTARY INFORMATION:**

#### Regulatory Information

On May 6, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Security Zones; Charleston Harbor, Cooper River, SC" in the **Federal Register** (70 FR 23950). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

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**. A similar temporary final rule (70 FR 1187, January 6, 2005) is in place but will expire on June 1, 2005.

Delaying the effective date would be contrary to the public interest as this final rule is necessary to prevent terrorist acts and to protect military and civilian personnel should a terrorist act occur.

#### Background and Purpose

This security zone is necessary to protect the safety of life and property on navigable waters and prevents potential terrorist threats aimed at military installations during strategic embarkation operations. The security zone will encompass all waters from the Don Holt I-526 Bridge over the Cooper River to the entrance of Foster Creek on the Cooper River. Occasionally multiple military vessels are in port at the same time, all of which require security zones. When this occurs, the safest way to secure the assets is to close this portion of the river. Additionally, this security zone has been in place on a temporary basis since the terrorist attacks of September 11, 2001. The current temporary security zone, 33 CFR 165.T07-145, was published in the **Federal Register** January 6, 2005 (70 FR 1187).

#### Discussion of Comments and Changes

No substantive issues were raised during the comment period and no changes were made from the proposed regulatory text.

#### Discussion of Rule

The security zone will encompass all waters from the Don Holt I-526 Bridge over the Cooper River to the entrance of Foster Creek on the Cooper River. The Charleston Captain of the Port will enforce the security zone on the Cooper River from time to time and in the interest of national security vessels that are carrying cargo for the Department of Defense (DoD).

These vessels that carry DoD cargo need a level of security that requires the Cooper River to be closed to all traffic for short periods of time. Security assets would be on scene and mariners will be given as much advanced notice as possible. Marine Safety Office Charleston will notify the maritime community of closure periods via a broadcast notice to mariners on VHF Marine Band Radio, Channel 16 (156.8 MHz), or Marine Safety Information Bulletins, or actual notice from on scene security assets enforcing the zone.

#### 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).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

The limited geographic area encompassed by the security zone should not restrict the movement of commercial or recreational vessels through the Port of Charleston. Also, the Coast Guard Captain of the Port or the Captain of the Port's designated representative may allow an individual to transit the security zone subsequent to an individual's request.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have 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 would not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit a portion of the Cooper River while the security zone is in effect.

This security zone will not have a significant economic impact on a substantial number of small entities because it will only be in place for short periods of time on an infrequent basis. As much advanced notice will be provided to mariners in order to accommodate for any enforcement of the security zone.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121),

we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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. No comments were made regarding 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. No comments were made on this section.

### 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. No comments were made on this section.

### 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. No comments were made on this section.

### 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. No comments were made on this section.

### 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. No comments were made on this section.

### 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. No comments were made on this section.

### 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. No comments were made on this section.

### 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. This rule fits within paragraph (34)(g) because it is a security zone.

Under figure 2-1, paragraph (34)(g) of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" 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; 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. Add § 165.709 to read as follows:

#### § 165.709 Security Zone; Charleston Harbor, Cooper River, South Carolina.

(a) *Regulated area.* The Coast Guard is establishing a fixed security zone on all waters of the Cooper River, bank-to-bank and surface to bottom, from the Don Holt I-526 Bridge to the intersection of Foster Creek at a line on 32 degrees 58 minutes North Latitude.

(b) *Enforcement period.* This section will be enforced when security assets are on scene and Marine Safety Office Charleston has notified the maritime community that an Enforcement Period is in effect. Marine Safety Office Charleston will notify the maritime community by broadcast notice to mariners on VHF Marine Band Radio, Channel 16 (156.8 MHz), or Marine

Safety Information Bulletins, or actual notice from on scene security assets enforcing the security zone.

(c) *Regulations.* During enforcement of the security zone described in paragraph (a) of this section, vessels or persons are prohibited from entering, transiting, mooring, anchoring, or loitering within the security zone unless authorized by the Captain of the Port Charleston, South Carolina or his or her designated representative.

(1) Persons desiring to transit the Regulated Area may contact the Captain of the Port via VHF-FM channel 16 or by telephone at (843) 720-3240 and request permission to transit the security zone.

(2) If permission to transit the security zone is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

Dated: June 1, 2005.

**John E. Cameron,**

*Captain, U.S. Coast Guard, Captain of the Port, Charleston, South Carolina.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2005-0046; FRL-7727-7]

#### Spiromesifen; Pesticide Tolerance; Technical Correction

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** EPA issued a final rule in the *Federal Register* of April 27, 2005, concerning tolerances for spiromesifen. This document is being issued to correct typographical errors regarding corn, sugar beet, and wheat tolerances in the tables of tolerances for 40 CFR Chapter I Part 180.607.

**DATES:** This final rule is effective on July 27, 2005.

**ADDRESSES:** Follow the detailed instructions as provided under

**ADDRESSES** in the *Federal Register* document of April 27, 2005.

**FOR FURTHER INFORMATION CONTACT:** Thomas Harris, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9423; e-mail address: [Harris.Thomas@epa.gov](mailto:Harris.Thomas@epa.gov).

**SUPPLEMENTARY INFORMATION:**

## I. General Information

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

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under the **FOR FURTHER INFORMATION CONTACT**.

### B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET at <http://www.epa.gov/edocket/>, 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 E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

## II. What Does this Correction Do?

FR Doc. 05-8120 published in the *Federal Register* of April 27, 2005 (70 FR 21631) (FRL-7705-1) is being corrected to clarify errors that were made to the tables of tolerances for § 180.607. The tolerances for corn, sugar beet, and wheat were affected. Also, the table for indirect tolerances was moved from paragraph (a)(2) to paragraph (d).

## III. Why is this Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's technical correction final without prior proposal and opportunity for comment, because EPA is merely correcting language that was inadvertently mistyped in the previously published final rule. The correct text was present in the Supplemental Information Section of the April 27, 2005 final rule but mistyped in the tolerance table. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

## IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

The applicable statutory and Executive Order reviews were included in the April 27, 2005 *Federal Register* document. This document is a technical

correction and as such no new review requirements are applicable.

## V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the *Federal Register*. This final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

Dated: July 19, 2005.

**James Jones,**

*Director, Office of Pesticide Programs.*

■ Therefore, 40 CFR part 180 is amended as follows:

### PART 180—AMENDED

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.607 is revised to read as follows:

#### § 180.607 Spiromesifen; tolerances for residues.

(a) *General.* (1) Tolerances are established for the combined residues of spiromesifen (2-oxo-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-3-en-4-yl 3,3-dimethylbutanoate) and its enol metabolite (4-hydroxy-3-(2,4,6-trimethylphenyl)-1-oxaspiro[4.4]non-2-one), calculated as the parent compound equivalents in or on the following primary crop commodities:

Commodity	Parts per million
Corn, field, forage .....	3.0
Corn, field, grain .....	0.02
Corn, field, stover .....	5.0
Cotton, gin byproducts ...	15
Cotton, undelinted seed	0.50
Strawberry .....	2.0
Tomato, paste .....	0.60
Vegetable, brassica, head and stem, sub- group 5A .....	2.0