

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[COTP Honolulu 07-001]

RIN 1625-AA87

**Security Zone; Waters Surrounding M/V TONG CHENG, HI**

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary 500-yard moving security zone around the M/V TONG CHENG during its transit within the Honolulu Captain of the Port Zone. This security zone is necessary to protect the M/V TONG CHENG from hazards associated with vessels and persons approaching too close during transit. Entry of persons or vessels into this temporary security zone is prohibited unless authorized by the Captain of the Port (COTP).

**DATES:** This rule is effective from 12:01 a.m. (HST) on January 22, 2007, until 11:59 p.m. (HST) on February 18, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket COTP Honolulu 07-001 and are available for inspection or copying at Coast Guard Sector Honolulu, 400 Sand Island Parkway, Honolulu, HI, between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant (Junior Grade) Quincey Adams, U.S. Coast Guard Sector Honolulu at (808) 842-2600.

**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. This security zone is established as part of the ongoing response operations relating to the M/V TONG CHENG. The Unified Command ordered this emergency procedure as soon as it was deemed necessary but not in time to complete full notice-and-comment rulemaking procedures, and the need for this temporary security zone was not determined until less than 30 days before the M/V TONG CHENG will require the protection provided by this rule. Publishing an NPRM and delaying the effective date would be contrary to the public interest since the transit would occur before completion of the

notice-and-comment rulemaking process, thereby jeopardizing the security of the people and property associated with the operation. 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 COTP finds this good cause to be the immediate need for a security zone to allay the waterborne security threats surrounding the M/V TONG CHENG's transit.

**Background and Purpose**

On December 26, 2006, M/V TONG CHENG suffered damage to the number 2 cargo hold at sea during heavy weather. Damage consisted of a 2.5 foot fracture in the port shell. The Cargo hold had taken on 21 feet of water. The Vessel was enroute to Cuba via the Panama Canal. The Vessel altered course towards Honolulu seeking entry to effect repairs.

Sector Honolulu formed a Unified Command with Customs and Border Protection, State of Hawaii and Responsible Party. Assets arranged under the Unified Command arrived on scene to conduct vessel damage assessment, source control, environmental assessment/mitigation and pollution investigation. Sector Honolulu coordinated with Marine Safety Center on vessel stability issues. The Unified Command plans to effect temporary repair of the hull damage in order to improve vessel stability for a safe transit to Honolulu Harbor for permanent repairs.

Due to the unknown duration of repairs, M/V TONG CHENG's actual arrival date and time will not be known in advance. The Coast Guard is establishing this security zone to ensure that the vessel is protected during its transit into Honolulu Harbor with as much public notice as possible.

**Discussion of Rule**

This temporary security zone is effective from 12:01 a.m. (HST) on January 22, 2007, until 11:59 p.m. (HST) on February 18, 2007. It is located within the Honolulu Captain of the Port Zone (See 33 CFR 3.70-10) and covers all U.S. navigable waters extending 500 yards in all directions from M/V TONG CHENG, from the surface of the water to the ocean floor. The security zone moves with M/V TONG CHENG while in transit. The security zone becomes fixed when M/V TONG CHENG is anchored, position-keeping, or moored. The security zone is anticipated to be activated and enforced for just a few days during its four-week effective period, however operations are

constrained by safety and security of the vessel and crew as well as the potential for damage to the environment from an oil spill. A broadcast notice to mariners will be issued to notify the public of this activation and enforcement period as soon as possible. M/V TONG CHENG will have a Coast Guard escort from entry into the Captain of the Port Honolulu Zone till it arrives at Honolulu Harbor or alternate anchorage designated by the Captain of the Port Honolulu.

The general regulations governing security zones contained in 33 CFR 165.33 apply. Entering into, transiting through, or anchoring within this zone is prohibited unless authorized by the Captain of the Port or a designated representative thereof. The Captain of the Port will cause notice of the enforcement of the security zone described in this section to be made by broadcast notice to mariners. Any Coast Guard commissioned, warrant, or petty officer, and any other Captain of the Port representative permitted by law, may enforce the zone. The Captain of the Port may waive any of the requirements of this rule for any person, vessel, or class of vessel upon finding that application of the security zone is unnecessary or impractical for the purpose of maritime security. Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

**Regulatory Evaluation**

This rule is not a "significant regulatory action" under § 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under § 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).

The Coast Guard expects 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. This expectation is based on the limited duration of the zone, the limited geographic area affected by it, and its ability to move with the protected vessel.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule will 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. We expect that there will be little or no impact to small entities due to the narrowly tailored scope of this security zone.

#### 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 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 either preempts State law or imposes 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. 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 is 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 M16475.1D, 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 limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, under figure 2–1, paragraph (34)(g) of the Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. An “Environmental Analysis Check List” and “Categorical Exclusion Determination (CED)” are available in the docket 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. 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. Add a new § 165.T14–152 to read as follows:

#### § 165.T14–152 Security zone; waters surrounding M/V TONG CHENG, HI.

(a) *Location.* The following area, in U.S. navigable waters within the Honolulu Captain of the Port Zone (See 33 CFR 3.70–10), from the surface of the water to the ocean floor, is a security zone: All waters extending 500 yards in all directions from M/V TONG CHENG. The security zone moves with M/V TONG CHENG while it is in transit and becomes fixed when M/V TONG CHENG is anchored, position-keeping, or moored.

(b) *Effective period.* This section is effective from 12:01 a.m. (HST) on January 22, 2007, until 11:59 p.m. (HST) on February 18, 2007.

(c) *Regulations.* The general regulations governing security zones contained in 33 CFR 165.33 apply. Entering into, transiting through, or anchoring within this zone is prohibited unless authorized by the Captain of the Port or a designated representative thereof.

(d) *Enforcement.* The Coast Guard will begin enforcement of the security zone described in this section upon M/V TONG CHENG's arrival into the Captain of the Port Honolulu Zone.

(e) *Informational notice.* The Captain of the Port of Honolulu will cause notice of the enforcement of the security zone described in this section to be made by broadcast notice to mariners.

(f) *Authority to enforce.* Any Coast Guard commissioned, warrant, or petty officer, and any other Captain of the Port representative permitted by law, may enforce this temporary security zone.

(g) *Waiver.* The Captain of the Port may waive any of the requirements of this section for any person, vessel, or class of vessel upon finding that application of the security zone is unnecessary or impractical for the purpose of maritime security.

(h) *Penalties.* Vessels or persons violating this section are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: January 21, 2007.

**V.B. Atkins,**

*Captain, U.S. Coast Guard, Captain of the Port, Honolulu.*

[FR Doc. E7-1611 Filed 1-31-07; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 60

[EPA-R08-OAR-2005-UT-0007; FRL-8275-2]

### Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Administrative Procedures

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

**ACTION:** Direct final rule and delegation of authority.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Governor of Utah on August 15, 2001. This SIP submittal deletes Utah's rules R307-102-3,

"Administrative Procedures and Hearings," and R307-414-3, "Request for Review." EPA is removing Utah's rules R307-102-3 and R307-414-3 from Utah's federally approved SIP, because these rules are not required to be in Utah's SIP. This action is being taken under section 110 of the Clean Air Act.

EPA is also providing notice that on November 8, 2006, Utah was delegated authority to implement and enforce certain New Source Performance Standards, as of July 1, 2005. In addition, we are approving updates to the NSPS "Delegation Status of New Source Performance Standards" table.

**DATES:** This rule is effective on April 2, 2007, without further notice, unless EPA receives adverse comment by March 5, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R08-OAR-2005-UT-0007, by one of the following methods:

- *www.regulations.gov* Follow the on-line instructions for submitting comments.

- *E-mail:* [ostrand.laurie@epa.gov](mailto:ostrand.laurie@epa.gov) and [fiedler.kerri@epa.gov](mailto:fiedler.kerri@epa.gov).

- *Fax:* (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- *Mail:* Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

- *Hand Delivery:* Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID Number EPA-R08-OAR-2005-UT-0007. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web

site is an "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kerri Fiedler, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, CO 80202-1129, phone (303) 312-6493, and e-mail at: [fiedler.kerri@epa.gov](mailto:fiedler.kerri@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

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