

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

[Docket No. COTP San Juan 05–007]

RIN 1625–AA87

**Security Zone: HOVENSA Refinery, St. Croix, United States Virgin Islands**

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

**SUMMARY:** The Coast Guard is establishing a security zone in the vicinity of the HOVENSA refinery facility on St. Croix, U.S. Virgin Islands. The security zone is needed for national security reasons to protect the public and the HOVENSA facility from potential subversive acts. This interim rule excludes entry into the security zone by all vessels without permission of the U.S. Coast Guard Captain of the Port San Juan or a scheduled arrival in accordance with the Notice of Arrival requirements of 33 CFR part 160, subpart C.

**DATES:** This interim rule is effective August 6, 2007. Comments and related material must reach the Coast Guard on or before September 5, 2007.

**ADDRESSES:** You may mail comments and related material to Sector San Juan, 5 Calle La Puntilla, San Juan, PR 00901. Sector San Juan Waterways Management maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Resident Inspections Office in St. Croix, United States Virgin Island between 7:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant A.M. Schmidt of Sector San Juan, Prevention Operations Department at (787) 289–2086.

**SUPPLEMENTARY INFORMATION:****Request for Comments**

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (COTP San Juan 05–007), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound

format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this interim rule in view of them.

**Public Meeting**

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Lieutenant A.M. Schmidt of Sector San Juan, Prevention Operations Department at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

**Regulatory Information**

On February 10, 2005, we published a notice of proposed rulemaking (NPRM) entitled “Security Zone: HOVENSA Refinery, St. Croix, United States Virgin Islands” in the **Federal Register** (70 FR 7065). We received no letters commenting on the proposed rule. No public meeting was requested and none was held. We decided to publish this interim rule instead of a final rule because we have determined it was necessary make a slight revision from the rule proposed in the above-mentioned notice of proposed rulemaking. Since the public did not have an opportunity to comment on the revision, we are issuing this interim rule with a request for comments before we create a final permanent rule.

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**. Given, the prior notice of proposed rulemaking, the current request for comments in this interim rule and the highly volatile nature of the substances at the HOVENSA refinery, to which it has the potential of being a terrorist target, it would be contrary to the public interest to delay the effective date of this regulation.

**Background and Purpose**

The Coast Guard has published similar temporary security zones in the **Federal Register** at 67 FR 2332, January 17, 2002; 67 FR 57952, September 13, 2002; 68 FR 22296, April 28, 2003; 68 FR 41081, July 10, 2003; 69 FR 6150, February 10, 2004; 69 FR 29232, May 21, 2004; and 70 FR 2950, January 19, 2005. Given the highly volatile nature of the substances stored at the HOVENSA facility, the Coast Guard recognizes that it could be a potential terrorist target

and there is continuing risk that subversive activity could be launched by vessels or persons in close proximity to the facility. This activity could be directed against tank vessels and the waterfront facility. This security zone is necessary to decrease the risk that subversive activity could be launched against the HOVENSA facility. The Captain of the Port San Juan is reducing this risk by prohibiting all vessels from entering within approximately 2 miles of the HOVENSA facility unless they have been specifically authorized by the Captain of the Port San Juan or have submitted a notice of arrival in accordance with the notice of arrival requirements of 33 CFR part 160, subpart C.

**Discussion of Change From Proposed Rule**

Although no comments were received on the NPRM, the COTP would like to receive comments on a proposed change to the regulatory text before issuing a final rule. The purpose of this change would be to clarify the boundaries of the security zone and reduce potential for misinterpretation. The change would affect the listed coordinates in paragraph (a) of § 165.766, and not the regulatory restrictions of the security zone in paragraph (b) of that section presented in the NPRM.

The pertinent sentence from the regulatory text in both the NPRM and this interim rule reads as follows:

This security zone includes all waters from surface to bottom, encompassed by an imaginary line connecting the following points: Point 1: 17°41'31" North, 64°45'09" West, Point 2: 17°39'36" North, 64°44'12" West, Point 3: 17°40'00" North, 64°43'36" West, Point 4: 17°41'48" North, 64°44'25" West, and returning to the point of origin.

The replacement language proposed for the final rule would read as follows:

This security zone includes all waters from surface to bottom, encompassed by an imaginary line connecting the following points: Point 1: 17°41'31" North, 64°45'09" West, Point 2: 17°39'36" North, 64°44'12" West, Point 3: 17°40'00" North, 64°43'36" West, Point 4: 17°41'48" North, 64°44'25" West, and then tracing the shoreline along the water's edge to return to the point of origin.

The only difference between the two versions is that in the final rule, instead of returning from the last coordinate listed to the point of origin, the line would follow “the shoreline along the water's edge” in returning to the point of origin.

**Discussion of Rule**

The security zone around the HOVENSA facility is encompassed by a

line connecting the following coordinates: 17°41'31" North, 64°45'09" West; 17°39'36" North, 64°44'12" West; 17°40'00" North, 64°43'36" West; and 17°41'48" North, 64°44'25" West, and back to the point of origin. The security zone includes the waters extending approximately 2 miles seaward from the HOVENSA facility, Limetree Bay Channel and Limetree Bay. All coordinates are based upon North American Datum 1983 (NAD 1983). All vessels without a scheduled arrival in accordance with the Notice of Arrival requirements of 33 CFR part 160, subpart C are excluded from the zone unless specifically authorized by the Captain of the Port San Juan.

#### 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.

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The burden imposed on the public by this rule is minimal and mariners may seek permission to enter the zone from the Coast Guard Captain of the Port San Juan or they may enter the zone if they have a scheduled arrival in accordance with the Notice of Arrival requirements of 33 CFR, part 160, subpart C.

#### 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 will not have a significant economic impact on a substantial number of small entities.

The factual basis for this certification is as follows:

- Owners of small charter fishing or diving operations that operate near the HOVENSA facility may be affected by the existence of this security zone.
- This rule will not have a significant economic impact on the above-mentioned entities or a substantial number of small entities because this zone covers an area that is not typically

used by commercial fisherman or divers.

Additionally, vessels may be allowed to enter the zone on a case-by-case basis with the permission of the Captain of the Port San Juan.

#### Assistance for Small Entities

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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 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 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.

#### 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 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.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide 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. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” 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, 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 § 165.766 to read as follows:

#### § 165.766 Security Zone: HOVENSA Refinery, St. Croix, U.S. Virgin Islands

(a) *Regulated area.* The Coast Guard is establishing a security zone in and around the HOVENSA Refinery on the south coast of St. Croix, U.S. Virgin Islands. This security zone includes all waters from surface to bottom, encompassed by an imaginary line connecting the following points: Point 1: 17°41′31″ North, 64°45′09″ West, Point 2: 17°39′36″ North, 64°44′12″ West, Point 3: 17°40′00″ North, 64°43′36″ West, Point 4: 17°41′48″ North, 64°44′25″ West, and returning to the point of origin. These coordinates are based upon North American Datum 1983 (NAD 1983).

(b) *Regulations.* (1) Under § 165.33, entry into or remaining in the security zone in paragraph (a) of this section is

prohibited unless authorized by the Coast Guard Captain of the Port San Juan or vessels have a scheduled arrival in accordance with the Notice of Arrival requirements of 33 CFR part 160, subpart C.

(2) Persons and vessels desiring to transit the Regulated Area may contact the U.S. Coast Guard Captain of the Port, San Juan, at telephone number 787–289–2041 or on VHF channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port.

Dated: July 23, 2007.

**J.E. Tunstall,**

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

[FR Doc. E7–15160 Filed 8–3–07; 8:45 am]

**BILLING CODE 4910–15–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R09–OAR–2007–0610; FRL–8448–6]

#### Revisions to the Arizona State Implementation Plan, Maricopa County

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Maricopa County portion of the Arizona State Implementation Plan (SIP). This revision concerns reductions of particulate matter (PM) emissions from the paving of unpaved roads and the use of these reductions to satisfy the offset requirements under the new source review provisions of the Clean Air Act as amended in 1990 (CAA or the Act). We are approving a local rule which assures that the PM emission reductions resulting from the road paving meet the criteria for valid offsets under the Act. **DATES:** This rule is effective on October 5, 2007 without further notice, unless EPA receives adverse comments by September 5, 2007. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2007–0610, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

**Instructions:** All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

**Docket:** The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Lily Wong, EPA Region IX, (415) 947–4114, [wong.lily@epa.gov](mailto:wong.lily@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us” and “our” refer to EPA.

#### Table of Contents

- I. The State’s Submittal
  - A. What rule did the State submit?
  - B. Are there other versions of this rule?
  - C. What is the purpose of the submitted rule?
- II. EPA’s Evaluation and Action
  - A. How is EPA evaluating the rule?
  - B. Does the rule meet the evaluation criteria?
  - C. Public Comment and Final Action
- III. Statutory and Executive Order Reviews