

**§ 538.533 Exportation of certain services and software incident to Internet-based communications.**

(a) To the extent that such transactions are not exempt from the prohibitions of this part and subject to the restrictions set forth in paragraph (b) of this section, the following transactions are authorized:

(1) The exportation from the United States or by U.S. persons, wherever located, to persons in Sudan of services incident to the exchange of personal communications over the Internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, and blogging, provided that such services are publicly available at no cost to the user.

(2) The exportation from the United States or by U.S. persons, wherever located, to persons in Sudan of software necessary to enable the services described in paragraph (a)(1) of this section, provided that such software is classified as "EAR99" under the Export Administration Regulations, 15 CFR parts 730 through 774 (the "EAR"), is not subject to the EAR, or is classified by the U.S. Department of Commerce ("Commerce") as mass market software under export control classification number ("ECCN") 5D992 of the EAR, and provided further that such software is publicly available at no cost to the user.

(b) This section does not authorize:

(1) The direct or indirect exportation of services or software with knowledge or reason to know that such services or software are intended for the Government of Sudan.

(2) The direct or indirect exportation of any goods or technology listed on the Commerce Control List in the EAR, 15 CFR part 774, supplement No. 1 ("CCL"), except for software necessary to enable the services described in paragraph (a)(1) of this section that is classified by Commerce as mass market software under ECCN 5D992 of the EAR.

(3) The direct or indirect exportation of Internet connectivity services or telecommunications transmission facilities (such as satellite links or dedicated lines).

(4) The direct or indirect exportation of web-hosting services that are for purposes other than personal communications (e.g., web-hosting services for commercial endeavors) or of domain name registration services.

(c) Specific licenses may be issued on a case-by-case basis for the exportation of other services and software incident to the sharing of information over the Internet, provided the software is classified as "EAR99," not subject to the EAR, or classified by Commerce as mass

market software under ECCN 5D992 of the EAR.

(d) Nothing in this section or in any license issued pursuant to paragraph (c) of this section relieves the exporter from compliance with the export license application requirements of another Federal agency.

**PART 560—IRANIAN TRANSACTIONS REGULATIONS**

■ 5. The authority citation for part 560 is revised to read as follows:

**Authority:** 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 22 U.S.C. 2349aa–9; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); 22 U.S.C. 7201–7211; Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217.

**Subpart E—Licensing, Authorizations, and Statements of Licensing Policy**

■ 6. Add a new § 560.540 to subpart E to read as follows:

**§ 560.540 Exportation of certain services and software incident to Internet-based communications.**

(a) To the extent that such transactions are not exempt from the prohibitions of this part and subject to the restrictions set forth in paragraph (b) of this section, the following transactions are authorized:

(1) The exportation from the United States or by U.S. persons, wherever located, to persons in Iran of services incident to the exchange of personal communications over the Internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, and blogging, provided that such services are publicly available at no cost to the user.

(2) The exportation from the United States or by U.S. persons, wherever located, to persons in Iran of software necessary to enable the services described in paragraph (a)(1) of this section, provided that such software is classified as "EAR99" under the Export Administration Regulations, 15 CFR parts 730 through 774 (the "EAR"), is not subject to the EAR, or is classified by the U.S. Department of Commerce ("Commerce") as mass market software under export control classification number ("ECCN") 5D992 of the EAR, and provided further that such software is publicly available at no cost to the user.

(b) This section does not authorize:

(1) The direct or indirect exportation of services or software with knowledge or reason to know that such services or software are intended for the Government of Iran.

(2) The direct or indirect exportation of any goods or technology listed on the Commerce Control List in the EAR, 15 CFR part 774, supplement No. 1 ("CCL"), except for software necessary to enable the services described in paragraph (a)(1) of this section that is classified by Commerce as mass market software under ECCN 5D992 of the EAR.

(3) The direct or indirect exportation of Internet connectivity services or telecommunications transmission facilities (such as satellite links or dedicated lines).

(4) The direct or indirect exportation of web-hosting services that are for purposes other than personal communications (e.g., web-hosting services for commercial endeavors) or of domain name registration services.

(c) Specific licenses may be issued on a case-by-case basis for the exportation of other services and software incident to the sharing of information over the Internet, provided the software is classified as "EAR99," not subject to the EAR, or classified by Commerce as mass market software under ECCN 5D992 of the EAR.

Dated: March 3, 2010.

**Adam J. Szubin,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2010–5023 Filed 3–8–10; 10:00 am]

**BILLING CODE 4810–AL–P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG–2008–0124]

RIN 1625–AA87

**Security Zone; Freeport LNG Basin, Freeport, TX**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard has established a permanent security zone in the Freeport LNG Basin. This security zone is needed to protect vessels, waterfront facilities, the public, and other surrounding areas from destruction, loss, or injury caused by sabotage, subversive acts, accidents, or other actions of a similar nature. Entry into this zone is prohibited, except for vessels that have obtained the express

permission from the Captain of the Port Houston-Galveston or his designated representative.

**DATES:** This rule is effective April 9, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2008-0124 and are available online by going to <http://www.regulations.gov>, inserting USCG-2008-0124 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Lieutenant Commander Kevin Ivey, Marine Safety Unit Galveston, Coast Guard; telephone 409-978-2704, e-mail [Kevin.L.Ivey@uscg.mil](mailto:Kevin.L.Ivey@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

On April 30, 2009 we published a notice of proposed rulemaking (NPRM) entitled Security Zone; Freeport LNG Basin, Freeport, TX in the **Federal Register** (33 FR 19926). We received no comments on the proposed rule.

##### **Background and Purpose**

Heightened awareness of potential terrorist acts requires enhanced security of our ports, harbors, and vessels. To enhance security, the Captain of the Port Houston-Galveston has established a permanent security zone.

This rule establishes a new distinct security zone within the port of Freeport, TX. This zone protects waterfront facilities, persons, and vessels from subversive or terrorist acts. Vessels operating within the Captain of the Port Houston-Galveston Zone are potential targets of terrorist attacks, or platforms from which terrorist attacks may be launched upon from other vessels, waterfront facilities, and adjacent population centers.

This zone is for an area concentrated with commercial facilities considered critical to national security. This rule is not designed to restrict access to vessels engaged, or assisting in commerce with waterfront facilities within the security zones, vessels operated by port

authorities, vessels operated by waterfront facilities within the security zones, and vessels operated by federal, state, county or municipal agencies. By limiting access to this area the Coast Guard reduces potential methods of attack on vessels, waterfront facilities, and adjacent population centers located within the zones. All vessels not exempted under § 165.814 desiring to enter this zone are required to obtain express permission from the Captain of the Port Houston-Galveston or his designated representative prior to entry.

##### **Discussion of Comments and Changes**

No comments were received regarding this rule. The Coast Guard is implementing the rule as proposed, without change.

##### **Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### **Regulatory Planning and Review**

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. The economic impact of this rule is so minimal that a full Regulatory Evaluation was unnecessary. The basis of this finding is that this security zone does not interfere with regular vessel traffic within the Freeport Ship Channel or the Intracoastal Waterway.

##### **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.

This rule does not have a significant economic impact on a substantial number of small entities for the following reason: This rule does not interfere with regular vessel traffic

within the Freeport Ship Channel and/or the Intracoastal Waterway.

##### **Assistance for Small Entities**

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

##### **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 Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human

environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction because this rule involves a regulation establishing, disestablishing, or changing Regulated Navigation Areas and security or safety zones.

An environmental analysis checklist and a 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. In § 165.814—

■ a. Remove paragraph (b);

■ b. Redesignate paragraph (c) as (b); and

■ c. Add paragraph (a)(5)(vi) and revise redesignated paragraph (b)(2) to read as follows:

**§ 165.814 Security Zone; Captain of the Port Houston-Galveston Zone.**

(a) \* \* \*

(5) \* \* \*

(vi) The Freeport LNG Basin containing all waters shoreward of a line drawn between the eastern point at latitude 28°56'25" N, 095°18'13" W, and the western point at 28°56'28" N, 095°18'31" W, east towards the jetties.

(b) \* \* \*

(2) Other persons or vessels requiring entry into a zone described in this section must request express permission to enter from the Captain of the Port Houston-Galveston, or designated representative. The Captain of the Port Houston-Galveston’s designated representatives are any personnel granted authority by the Captain of the Port Houston-Galveston to receive, evaluate, and issue written security zone entry permits, or the designated on-scene U.S. Coast Guard patrol personnel described in paragraph (b)(4).

\* \* \* \* \*

Dated: December 28, 2009.

**M.E. Woodring,**

*Captain, U.S. Coast Guard, Captain of the Port Houston-Galveston.*

[FR Doc. 2010-5056 Filed 3-9-10; 8:45 am]

**BILLING CODE 9110-04-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 261**

[EPA-R04-RCRA-2008-0900; FRL-9124-8]

**Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Rule**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** Environmental Protection Agency (EPA) is granting the petition submitted by The Valero Refining Company—Tennessee, LLC (Valero) to exclude or “delist” a certain sediment generated by its Memphis Refinery in Memphis, Tennessee from the lists of hazardous wastes. This final rule responds to a petition submitted by Valero to delist F037 waste. The F037 waste is sediment generated in the Storm Water Basin.

After careful analysis and use of the Delisting Risk Assessment Software (DRAS), EPA has concluded the petitioned waste is not hazardous waste. The F037 exclusion is a one-time exclusion for 2,700 cubic yards of the F037 Storm Water Basin sediment. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

**DATES:** *Effective Date:* March 10, 2010.

**ADDRESSES:** The public docket for this final rule is available either electronically at <http://www.regulations.gov> or in hard copy at the RCRA and OPA Enforcement and Compliance Branch, RCRA Division, U.S. Environmental Protection Agency Region 4, Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303 and is available for viewing through the EPA Freedom of Information Act (FOIA) from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call the FOIA Officer at (404) 562-8028 for appointments. The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of \$0.15 per page for additional copies.