

(ii) *Enforcement period.* 9:45 p.m. (P.d.t.) to 10:45 p.m. (P.d.t.) on July 10, 2004.

(2) *Astoria Regatta Fireworks Show, Astoria, OR*

(i) *Location.* All water of the Columbia River enclosed by the following points: 46°11'51" N 123°49'46" W east to 46°11'52" N 123°49'03" W south to 46°11'27" N 123°49'03" W following the shoreline to 46°11'26" N 123°49'46" W then back to the point of origin.

(ii) *Enforcement period.* 9:45 p.m. (P.d.t.) to 10:45 p.m. (P.d.t.) on August 14, 2004.

(3) *Oregon Symphony Concert Fireworks Display, Portland, OR*

(i) *Location.* All waters of the Willamette River bounded by the Hawthorne Bridge to the north, Marquam Bridge to the south, and shoreline to the east and west.

(ii) *Enforcement period.* 8:45 p.m. (P.d.t.) to 9:45 p.m. on September 2, 2004.

(b) *Regulations.* In accordance with the general regulations in Section 165.23 of this part, no person or vessel may enter or remain in this zone unless authorized by the Captain of the Port or his designated representatives.

Dated: April 27, 2004.

**Paul D. Jewell,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Juan-04-044]

RIN 1625-AA00

#### Security Zone; St. Croix, United States Virgin Islands

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule; request for comments.

**SUMMARY:** The Coast Guard is establishing a temporary security zone in the vicinity of the HOVENSA refinery facility on St. Croix, U.S. Virgin Islands encompassing the waters of Limetree Bay and Limetree Bay Channel. This security zone is needed for national security reasons to protect the public and the HOVENSA facility from potential subversive acts. All vessels must receive permission from the U.S. Coast Guard Captain of the Port San

Juan prior to entering this temporary security zone.

**DATES:** This rule is effective from April 16, 2004, until October 16, 2004.

**ADDRESSES:** You may mail comments and related material to Marine Safety Office San Juan, 5 Calle La Puntilla, San Juan, PR 00901. Marine Safety Office San Juan 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 the Marine Safety Office between 7 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT Kevin Reed, Marine Safety Office San Juan, Puerto Rico at (787) 289-0739.

#### 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 a NPRM. Publishing a NPRM and delaying the rule's effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States.

For the same reasons, 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**. Similar temporary security zones have been established over the past few years and published in the **Federal Register**: 67 FR 2332, January 17, 2002; 67 FR 57952, September 13, 2002; 67 FR 22296, April 28, 2003; 67 FR 41081, July 10, 2003; and 69 FR 6150, February 10, 2004. However, the last in this series of temporary final rules expired April 15, 2004. We did not receive any comments on these past temporary final rules.

The Captain of the Port San Juan has determined that due to the continued risk and recent increases in maritime security concerns, there is the need to continue to have this regulation in place. The Coast Guard intends to publish a notice of proposed rulemaking to create a permanent security zone.

##### Request for Comments

Although the Coast Guard has good cause to implement this regulation without a notice of proposed rulemaking, we want to afford the public the opportunity to participate in this rulemaking by submitting comments and related material regarding the size and boundaries of

these security zones in order to minimize unnecessary burdens. If you do so, please include your name and address, identify the docket number for this rulemaking (COTP San Juan-04-044), 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 temporary final rule in view of them.

##### Background and Purpose

Based on the September 11, 2001, terrorist attacks and recent increases in maritime security concerns, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the HOVENSA refinery on St. Croix, USVI against tank vessels and the waterfront facility. Given the highly volatile nature of the substances stored at the HOVENSA 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 without a scheduled arrival from coming within 3 miles of the HOVENSA facility unless specifically permitted by the Captain of the Port San Juan, or that officer's designated representative. The Captain of the Port San Juan can be reached on VHF Marine Band Radio, Channel 16 (156.8 Mhz) or by calling (787) 289-2040, 24 hours a day, 7 days a week. The HOVENSA Facility Port Captain can be reached on VHF Marine Band Radio channel 11 (156.6 Mhz) or by calling (340) 692-3488, 24 hours a day, seven days a week.

The temporary security zone is defined by a triangular area that extends 3 miles seaward from the HOVENSA facility and encompasses the waters of Limetree Bay and Limetree Channel, as outlined by the following coordinates: 17°41'32"N, 64°45'09"W; thence to 17°41'44"N, 64°44'39"W; thence to 17°38'30"N, 64°43'12"W; thence returning to the beginning point at 17°41'39"N, 64°45'09"W. The security zone does not include the waters of the Cross Channel and Krause Lagoon Channel.

##### 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) because this zone covers an area that is not typically used by commercial vessel traffic, including fishermen, and 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.

#### 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 effect upon a substantial number of small entities. “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.

This rule may affect the following entities, some of which may be small entities: owners of small charter fishing or diving operations that operate near the HOVENSA facility. 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 because this zone covers an area that is not typically used by commercial fishermen and 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.

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 offer to assist small entities in understanding this 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 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 would call 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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule would 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 would not create an environmental risk to health or risk to safety that might 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 would 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. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a “tribal implication” under the Order.

#### 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.

#### Environment

We have analyzed this proposed 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. An “Environmental Analysis Check List” and a “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. From April 16, 2004, until October 16, 2004, add § 165.T07–101 to read as follows:

### § 165.T07–101 Security Zone; HOVENSA Refinery, St. Croix, U.S. Virgin Islands.

(a) *Location.* The following area is a security zone: All waters from surface to bottom encompassed by a line connecting the following coordinates based on the NAD 83: The point at 17°41'32" North, 64°45'09" West; thence to 17°41'44" North, 64°44'39" West; thence to 17°38'30" North, 64°43'12" West; thence returning to the beginning point at 17°41'32" North, 64°45'09" West.

(b) *Regulations.* Under § 165.33, with the exception of vessels with scheduled arrivals to the HOVENSA Facility, no vessel may enter the regulated area unless specifically authorized by the Captain of the Port San Juan (COTP) or a Coast Guard commissioned, warrant, or petty officer designated by the Captain of the Port. The Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (156.8 Mhz). The Captain of the Port San Juan can be reached on VHF Marine Band Radio, Channel 16 (156.8 Mhz) or by calling (787) 289–2040, 24 hours a day, 7 days a week. The HOVENSA Facility Port Captain can be reached on VHF Marine Band Radio channel 11 (156.6 Mhz) or by calling (340) 692–3488, 24 hours a day, 7 days a week.

Dated: April 16, 2004.

**William J. Uberti,**

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

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region II Docket No. NJ68–275, FRL–7661–1]

### Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Enhanced Inspection and Maintenance Program

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a request from New Jersey to revise its State Implementation Plan (SIP) to incorporate revisions to the enhanced inspection and maintenance (I/M) program. New Jersey has made several amendments to its I/M rules to comply with EPA regulations and to improve performance of the program and has requested that the SIP be revised to include these changes. Chief among the amendments EPA is approving is New Jersey's On-Board Diagnostic (OBD) program. EPA is approving New Jersey's latest I/M rule changes. The intended effect of this action is to maintain consistency between the State-adopted rules and the federally approved SIP.

**DATES:** *Effective Date:* This rule will be effective June 21, 2004.

**ADDRESSES:** Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,  
Region 2 Office, Air Programs Branch,  
290 Broadway, 25th Floor, New York,  
New York 10007–1866.

Environmental Protection Agency, Air  
and Radiation Docket and Information  
Center, Air Docket (6102), 401 M  
Street, SW., Washington, DC 20460.

New Jersey Department of  
Environmental Protection, Bureau of  
Air Quality Planning, 401 East State  
Street, CN027, Trenton, New Jersey  
08625.

### FOR FURTHER INFORMATION CONTACT:

Reema Persaud, Air Programs Branch,  
290 Broadway, 25th Floor, New York,  
NY 10007–1866, (212) 637–4249,  
[persaud.reema@epa.gov](mailto:persaud.reema@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

On December 15, 2003 (68 FR 69637), EPA published a notice of proposed rulemaking regarding a State Implementation Plan (SIP) revision submitted by the State of New Jersey. The notice proposed to approve a revision to the SIP for New Jersey's

enhanced inspection and maintenance (I/M) program. New Jersey made several amendments to its I/M rules to comply with EPA regulations and to improve performance of the program and requested that the SIP be revised to include these changes. Chief among the amendments EPA proposed to approve is New Jersey's On-Board Diagnostic (OBD) program. A detailed description of New Jersey's submittals and EPA's rationale for the proposed action were presented in the December 15, 2003 proposal, referenced above, and will not be restated here.

#### II. Public Comments on the Proposed Action

No comments were received for the proposed rulemaking published in the December 15, 2003 **Federal Register**.

#### III. Final Action

EPA is taking final action to approve New Jersey's OBD I/M program and additional changes to the I/M SIP discussed in the Notice of Proposed Rulemaking titled "Approval and Promulgation of Implementation Plans; New Jersey; Motor Vehicle Enhanced Inspection and Maintenance Program." EPA is approving the request for the exemption of OBD-eligible gasoline-fueled and bi-fueled school buses from enhanced I/M inspection, and for leasing companies and out-of-state dealerships to be allowed to issue temporary inspection decals. The SIP revision also incorporated several features of the current New Jersey Enhanced Inspection and Maintenance program, such as, the increase of the minimum cost expenditure value for the issuance of a waiver from \$200 to \$450; the exemption from dynamometer testing any motor vehicle "with a chassis height that has been modified so as to make its operation on a dynamometer either impractical or hazardous"; and the removal of all references to the evaporative pressure and purge test, while retaining the evaporative fuel cap leak test; and additional amendments to clarify definitions and other aspects of the program. The State demonstrated there is no adverse impact to air quality with the exemption of new cars from inspection for four years, as opposed to two years, and the change in the minimum cost expenditure value for the issuance of a waiver, from \$200 to \$450. Please refer to the proposed rulemaking 68 FR 69637 for further details on all approved measures. EPA's authority to approve New Jersey's enhanced I/M program is set forth at sections 110 and 182 of the Clean Air Act.