

with main landing gear (MLG) side brace assemblies, part number (P/N) D22710000-7, equipped with upper arms having P/N D56778-10, serial numbers MN 566 through MN 581 inclusive; certificated in any category.

#### Unsafe Condition

(d) This AD was prompted by an operator who reported experiencing an unlock warning for the MLG on the right side of the airplane. We are issuing this AD to prevent cracking of the upper arms of the side braces of the MLG, which could result in failure of the MLG during landing and possible damage to the airplane and injury to the flightcrew and passengers.

#### Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

#### Service Bulletin References

(f) The term "service bulletin," as used in this AD, means the Accomplishment Instructions of the following service bulletins, as applicable:

(1) For the repetitive inspections and replacements specified in paragraphs (g) and (h) of this AD, respectively: Messier-Dowty Special Inspection Service Bulletin 631-32-175, dated January 7, 2004; and

(2) For the replacements specified in paragraph (i) of this AD: Messier-Dowty Service Bulletin 631-32-176, Revision 1, dated June 2, 2004.

#### Repetitive Inspections of Identification Plates

(g) Within 2 months or 500 flight hours after the effective date of this AD, whichever occurs first: Do a general visual inspection of the upper arms of the MLG side braces for missing or inadequately bonded identification plates having P/Ns D61565-1, D61566-1, D61567-1, and D61568-1, in accordance with the service bulletin. Thereafter at intervals not to exceed 2 months or 500 flight hours, whichever occurs first: Repeat the inspection of the upper arm of the MLG side brace for any side brace assembly that has not been replaced as required by paragraph (i) of this AD.

**Note 1:** For the purposes of this AD, a general visual inspection is: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

#### Replacement of Upper Arms, If Necessary

(h) If any identification plate, P/N D61565-1, D61566-1, D61567-1, or D61568-1, is found missing or inadequately bonded

during any inspection required by paragraph (g) of this AD: Within 25 flight hours since the most recent inspection, replace any upper arm having a missing or inadequately bonded identification plate with a serviceable upper arm having the same part number, in accordance with the service bulletin.

#### Replacement With Modified Side Brace Assemblies

(i) Before the accumulation of 15,000 total flight cycles on a side brace assembly or 96 months on a side brace assembly since new, whichever occurs first: Remove the side brace assembly and replace it with a part modified by doing all of the actions in the service bulletin. Replacement of a side brace assembly with a modified part terminates the repetitive inspections required by paragraph (g) of this AD for that modified side brace assembly only. If both side brace assemblies of the MLG are replaced with modified parts, no more work is required by paragraph (g) of this AD.

#### Credit for Previous Service Bulletin

(j) Replacements done before the effective date of this AD in accordance with Messier-Dowty Service Bulletin 631-32-176, dated February 26, 2004, is acceptable for compliance with the corresponding requirements of paragraph (i) of this AD.

#### Alternative Methods of Compliance (AMOCs)

(k) The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

#### Related Information

(l) French airworthiness directive F-2004-006, dated January 7, 2004, also addresses the subject of this AD.

Issued in Renton, Washington, on January 21, 2005.

#### Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP San Juan 05-002]

RIN 1625-AA87

### Moving and Fixed Security Zone: Port of Fredericksted, Saint Croix, U.S. Virgin Islands

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish a moving and fixed security zone around cruise ships entering,

departing, mooring or anchoring at the Port of Fredericksted in Saint Croix, U.S. Virgin Islands. These proposed regulations are designed to protect cruise ships at this port. All vessels, with the exception of cruise ships, would be prohibited from entering a moving and fixed security zone around each cruise ship without the express permission of the Captain of the Port San Juan or designated representative.

**DATES:** Comments and related material must reach the Coast Guard on or before March 3, 2005.

**ADDRESSES:** You may mail comments and related material to Coast Guard Sector San Juan, Prevention Command Office, San Juan, #5 La Puntilla Final, Old San Juan, PR 00901-1800. Prevention Command Office 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 Prevention Command Office, San Juan, #5 La Puntilla Final, Old San Juan, PR 00901-1800, between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Junior Grade Katuska Pabon, Prevention Command San Juan at (787) 289-0739.

#### 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 05-002, 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 proposed 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 Sector San Juan, Prevention Command Office, 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**.

### Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched from vessels in close proximity to cruise ships entering, departing, mooring or anchoring at any port of call. Following these attacks, national security and intelligence officials have warned that future terrorists attacks are likely and may include maritime interests such as cruise ships. The Captain of the Port San Juan proposes to reduce this risk by preventing unauthorized vessels from entering a moving and fixed security zone around each cruise ship entering, departing, anchoring or mooring at the Port of Fredericksted without the authorization of the Captain of the Port San Juan or designated representative. A temporary final rule, COTP San Juan 05-005, in effect from 5 a.m. on January 23, 2005, until July 23, 2005, contains temporary regulations that provide security measures for cruise ships at the Port of Fredericksted.

Captain of the Port San Juan can be contacted on VHF Marine Band Radio, Channel 16 (156.8 Mhz), or by telephone number (787) 289-0739. The United States Coast Guard Communications Center would notify the public via Broadcast Notice to Mariners VHF Marine Band Radio, Channel 22, when a moving and fixed security zone is activated around a cruise ship at Fredericksted.

### Discussion of Proposed Rule

This proposed rule would provide security measures to protect cruise ships entering, departing, mooring or anchoring at the Port of Fredericksted, St. Croix, U.S. Virgin Islands. A moving and fixed security zone surrounding a cruise ship would be activated when an arriving cruise ship is within one nautical mile of the west end of the Fredericksted Pier and then deactivated when a departing cruise ship is beyond one nautical mile from the west end of the Fredericksted Pier. All vessels would be prohibited from entering the fixed and moving security zone extending in a 50-yard radius around a cruise ship, from surface to bottom, without the express permission of the Captain of the Port San Juan when the zone is activated.

### Regulatory Evaluation

This proposed 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 security zone to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Entry into the security zone would be prohibited for a limited time. Additionally, vessels may be allowed to enter the security zone with the express permission of the Captain of the Port San Juan or designated representative.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this proposed rule would have a significant economic effect upon 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor at the Port of Fredericksted, St. Croix, U.S. Virgin Islands, when a fixed or moving security zone around a cruise ship is in effect. However, a moving and fixed security zone around a cruise ship would only be in effect for a limited time. Additionally, vessels may be allowed to enter the security zone with the express permission of the Captain of the Port San Juan or a designated representative. Finally, we would issue maritime advisories that would be widely available when we expect a security zone to go into effect.

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 want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**. 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 proposed rule calls for no new collection of information requirements 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 proposed 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 proposed 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 proposed 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 proposed 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 proposed 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 may disproportionately affect children.

## Indian Tribal Governments

This proposed 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.

## Energy Effects

We have analyzed this proposed 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 system practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## 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.

Under figure 2–1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" (CED) 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 proposes to amend 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 § 165.763 to read as follows:

#### § 165.763 Moving and Fixed Security Zone, Port of Fredericksted, Saint Croix, U.S. Virgin Islands.

(a) *Location.* A moving and fixed security zone is established that surrounds all cruise ships entering, departing, mooring or anchoring in the Port of Fredericksted, Saint Croix, U.S. Virgin Islands. The security zone extends from the cruise ship outward and forms a 50-yard radius around the vessel, from surface to bottom. The security zone for a cruise ship entering port is activated when the vessel is within one nautical mile west of the Fredericksted Pier lights. The security zone for a vessel is deactivated when the cruise ship is beyond one nautical mile west of the Fredericksted Pier lights. The Fredericksted Pier lights are at the following coordinates: 17°42'55" N, 64°42'55" W. All coordinates are North American Datum 1983 (NAD 1983).

(b) *Regulations.* (1) Under general regulations in § 165.33 of this part, entering, anchoring, mooring, or

transiting in these zones is prohibited unless authorized by the Coast Guard Captain of the Port San Juan or designated representative.

(2) Persons desiring to transit through a security zone may contact the Captain of the Port San Juan who can be reached on VHF Marine Band Radio, Channel 16 (156.8 Mhz) or by calling (787) 289–0739, 24 hours a day, 7 days a week. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or designated representative.

(3) Sector San Juan will attempt to notify the maritime community of periods during which these security zones will be in effect by providing advance notice of scheduled arrivals and departures of cruise ships via a broadcast notice to mariners.

(c) *Definition.* As used in this section, *cruise ship* means a passenger vessel greater than 100 feet in length that is authorized to carry more than 150 passengers for hire, except for a ferry.

(d) *Authority.* In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

Dated: January 24, 2005.

**D. P. Rudolph,**

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

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R10–OAR–2004–WA–0001; FRL–7866–6]

#### Approval and Promulgation of Implementation Plans; Wallula, Washington PM<sub>10</sub> Nonattainment Area; Serious Area Plan for Attainment of the Annual and 24-Hour PM<sub>10</sub> Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve Washington's State Implementation Plan for the Wallula, Washington serious nonattainment area for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>). Initially Wallula was classified as a moderate nonattainment area for PM<sub>10</sub> pursuant to the Clean Air Act Amendments of 1990. In 2001, it was reclassified as a serious nonattainment area for PM<sub>10</sub>. As a result, Washington was required to submit a serious area plan for bringing the area into attainment. This action