

transportation to any State. The Coast Guard regulates the licensing of deepwater ports, in 33 CFR parts 148, 149, and 150, under a temporary interim rule issued in 2004 (69 FR 724, Jan. 6, 2004).

On May 16, 2005, the Coast Guard issued Navigation and Vessel Inspection Circular No. 03-05 (NVIC 03-05). NVIC 03-05 provides guidance to deepwater port license applicants and operators, to the Coast Guard, and to "certifying entities" that perform certification work on behalf of the Coast Guard. This guidance relates to the design, plan review, fabrication, installation, maintenance, and oversight of deepwater ports. NVIC 03-05 encourages voluntary compliance, but is not intended to and does not impose legally binding requirements on any person.

The **ADDRESSES** section of this notice tells how to view or obtain a copy of NVIC 03-05. The Coast Guard is issuing this notice of availability in accordance with the commitment we made in our temporary interim rule, at 69 FR 726, to keep the public informed of Coast Guard policies interpreting the deepwater port regulations. We will issue additional notices of availability, should we modify or supplement NVIC 03-05 in the future.

Dated: May 31, 2005.

**Howard L. Hime,**

*Acting Director of Standards, Marine Safety, Security, and Environmental Protection, U.S. Coast Guard.*

[FR Doc. 05-11318 Filed 6-7-05; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD13-05-007]

RIN 1625-AA87

#### Security Zone: Portland Rose Festival on Willamette River

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is permanently amending the Portland Rose Festival on Willamette River security zone. This regulation is enforced annually during the Portland, Oregon Rose Festival on the waters of the Willamette River between the Hawthorne and Steel Bridges. The current regulation does not accurately describe the enforcement period. The

change clarifies the annual enforcement period for this regulation. This change will better inform the boating public and improve the level of safety at this event. Entry into the area established is prohibited unless authorized by the Captain of the Port.

**DATES:** This rule is effective June 8, 2005. In 2005, 33 CFR 165.1312 will be enforced on Wednesday, June 8, through Monday, June 13.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket are part of docket (CGD13-05-007) and are available for inspection or copying at U.S. Coast Guard Marine Safety Office, c/o Captain of the Port, 6767 North Basin Avenue Portland, OR 97217. Marine Safety Office Portland, Oregon between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** MST1 Charity Keuter, c/o Captain of the Port Portland, OR 6767 North Basin Avenue Portland, OR 97217 at (503) 240-9301.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On May 9, 2005, we published a notice of proposed rulemaking (NPRM) entitled "Security Zone: Portland Rose Festival on Willamette River" in the **Federal Register** (70 FR 24342). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

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**. Earlier notice was not provided to the Coast Guard that the regulation as written would not provide the required security for the vessels participating in the 2005 Portland Rose Festival. Any delay encountered in this regulation's effective date would be contrary to public interest because immediate action is necessary to ensure the safety and security of the participating vessels.

##### Background and Purpose

Each year in June, the annual Portland, Oregon Rose Festival is held on the waters of the Willamette River near Portland, Oregon. On May 29, 2003, the Coast Guard published a final rule (68 FR 31979) establishing a security zone, in 33 CFR 165.1312, for the security of naval vessels on a portion of the Willamette River during the fleet week of the Rose Festival. The security zone in 33 CFR 165.1312 is enforced each year during the event to

provide for public safety by controlling the movement of vessel traffic in the regulated area. The current regulation does not accurately describe the enforcement period.

This rule permanently amends 33 CFR 165.1312 requiring compliance with the regulation each year from the first Wednesday in June falling on the 4th or later through the following Monday in June. Specific times of compliance will be published in the **Federal Register** each year as a notice of enforcement.

The regulated area and the security zone remain unchanged.

#### Discussion of Comments and Changes

The Coast Guard received no comments and thus has made no changes from the proposed rule.

#### 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).

We expect 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 fact that the regulated area of the Willamette River is a small area, enforced for a short period of time, and it is established for the benefit and safety of the recreational boating public.

#### 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 will affect the following entities some of which may be small entities: The owners and operators of vessels intending to transit or anchor in the security zone during the times this zone is enforced. This security zone will

not have a significant economic impact on a substantial number of small entities for the following reasons: Vessels desiring to transit this area of the Willamette River may do so by scheduling their trips in the early morning or evening when the restrictions on general navigation imposed by this section will not be in effect.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered 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 governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact 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.

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 the rule 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.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. The Coast Guard has determined that because this security zone will not last longer than one week in duration that it should be "Categorically Excluded". Under figure 2-1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" 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 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. In §§ 165.1312 revise paragraph (d) to read as follows:

**§ 165.1312 Security Zone; Portland Rose Festival on Willamette River.**

\* \* \* \* \*

(d) *Enforcement period.* This section is enforced annually in June from the first Wednesday in June falling on the 4th or later through the following Monday in June. The event will be 6 days in length and the specific dates of enforcement will be published each year in the **Federal Register**. In 2005, the zone will be enforced on Wednesday, June 8, through Monday, June 13.

Dated: June 1, 2005.

**Paul D. Jewell,**

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

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 9, 23, 163, 177, 178, 179, and 180**

[OPP-2003-0176; FRL-7706-9]

**Updating Generic Pesticide Chemical Tolerance Regulations**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is updating generic provisions of its procedural regulations pertaining to pesticide chemical tolerances and exemptions from the requirement of a tolerance under section 408 of the Federal Food, Drug, and Cosmetic Act. This update is necessary due to various changes made in the underlying statute by the Food Quality Protection Act of 1996. The amendments are primarily administrative in nature. EPA believes that these revisions will clarify the regulations and reduce confusion for users.

**DATES:** This final rule is effective August 8, 2005.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number OPP-2003-0176. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket/>. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard

copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:**

Jonathan Fleuchaus, Office of General Counsel, Mail code 2333A, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-5628; fax number: (202) 564-5644; e-mail address: [fleuchaus.jonathan@epa.gov](mailto:fleuchaus.jonathan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturer (NAICS 311)
- Pesticide manufacturer (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Access Electronic Copies of this Document and Other Related Information?*

In addition to using EDOCKET (<http://www.epa.gov/edocket/>), you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgrst/>. A frequently updated electronic version of 40 CFR is available at E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

**II. Background**

In the **Federal Register** of October 8, 2004 (69 FR 60320) (FRL-7308-2), EPA proposed to amend various sections of 40 CFR parts 9, 23, 163, and 177-180 pertaining to pesticide chemical tolerances to make them consistent with

the changes to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, contained in the Food Quality Protection Act of 1996 (FQPA). These proposed changes were primarily procedural in nature.

Two substantive comments were received on the proposal. EPA's response to these two comments is contained in Unit IV. In brief, neither of these comments objected to the changes proposed by EPA; rather, the commenters argued that EPA should have made further changes to the tolerance regulations. As explained in Unit IV., EPA believes that certain additional changes in this regulation are merited based on the comments.

Further, as explained in Unit III., EPA has identified several additional minor changes to the tolerance regulations that help to conform the existing tolerance regulations to the changes made by the FQPA.

Accordingly, other than the modifications identified in Units III. and IV., EPA is adopting in the final rule its revisions to the FFDCA tolerance regulations as proposed.

**III. Additional Changes To Tolerance Regulations Identified by EPA**

EPA proposed to amend 40 CFR 178.37(c) by removing language that specified that the effective date for an order responding to objections "must not be earlier than the 90th day after it is published unless the order contains findings as to the existence of emergency conditions that necessitate an earlier effective date." See 40 CFR 178.37(c). The 90-day limitation on effectiveness was drawn directly from FFDCA section 408 prior to its amendment by the FQPA. Specifically, prior section 408(d)(5) stated that "[n]o order [following a hearing on a tolerance regulation] shall take effect prior to the ninetieth day after its publication, unless the Administrator finds that emergency conditions exist necessitating an earlier effective date, in which event the Administrator shall specify in the order of his findings as to such conditions." 21 U.S.C. 346a(d)(5) (1994). That language, however, was dropped from section 408 upon its amendment by the FQPA. See 21 U.S.C. 346a(g)(2)(C). Similar language requiring a 90-day delay in effectiveness also appears in 40 CFR 179.105(b)(ii). EPA inadvertently missed this obsolete requirement in 40 CFR part 179 in issuing its proposal. Because removal of this language is consistent with the revised statute and the proposal, EPA is deleting the 90-day limitation on effectiveness from 40 CFR 179.105(b)(ii) as well as from 40 CFR 178.37(c).