

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par 2. In § 1.1031(k)-1, paragraph (k)(4) is revised to read as follows:

§ 1.1031(k)-1 Treatment of deferred exchanges.

* * * * *

(k) * * *

(4)(i) Except as provided in paragraph (k)(4)(ii) of this section, the person and a person described in paragraph (k)(2) of this section bear a relationship described in either section 267(b) or 707(b) (determined by substituting in each section “10 percent” for “50 percent” each place it appears).

(ii) In the case of a transfer of relinquished property made by a taxpayer on or after January 17, 2001, paragraph (k)(4)(i) of this section does not apply to a bank (as defined in section 581) or a bank affiliate if, but for this paragraph (k)(4)(ii), the bank or bank affiliate would be a disqualified person under paragraph (k)(4)(i) of this section solely because it is a member of the same controlled group (as determined under section 267(f)(1), substituting “10 percent” for “50 percent” where it appears) as a person that has provided investment banking or brokerage services to the taxpayer within the 2-year period described in paragraph (k)(2) of this section. For purposes of this paragraph (k)(4)(ii), a bank affiliate is a corporation whose principal activity is rendering services to facilitate exchanges of property intended to qualify for nonrecognition of gain under section 1031 and all of whose stock is owned by either a bank or a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)).

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Approved: January 25, 2002.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Mark Weinberger,

Assistant Secretary of the Treasury.

[FR Doc. 02-2532 Filed 1-31-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 117**

[CGD08-02-001]

RIN 2115-AE47

Drawbridge Operating Regulation; Mississippi River, Iowa and Illinois

AGENCY: Coast Guard, DOT.

ACTION: Temporary deviation.

SUMMARY: The Commander, Eighth Coast Guard District has authorized a temporary deviation from the regulation governing the Sabula Railroad Drawbridge, Mile 535.0, Upper Mississippi River at Sabula, Iowa. This deviation allows the drawbridge to remain closed to navigation for 50 days from 12:01 a.m., January 20, 2002, until 12:01 a.m., March 11, 2002. The drawbridge shall open on signal if at least twenty-four (24) hours advance notice is given.

DATES: This temporary deviation is effective from 12:01 a.m., January 20, 2002, until 12:01 a.m., March 11, 2002.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (obr), 1222 Spruce Street, St. Louis, MO 63103-2832. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, at (314) 539-3900, extension 378.

SUPPLEMENTARY INFORMATION: The I & M Rail Link Railroad requested a temporary deviation on December 20, 2001 from the drawbridge operation regulations to allow the bridge owner time for preventative maintenance. The drawbridge operation regulations require that the drawbridge open on signal.

The Sabula Railroad Drawbridge provides a vertical clearance of 18.1 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft. This deviation has been coordinated with waterway users. There were no objections.

This deviation allows the bridge to remain closed to navigation from 12:01 a.m., January 20, 2002 to 12:01 a.m., March 11, 2002 with openings provided upon receipt of twenty-four (24) hours advance notice.

Dated: January 15, 2002.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 02-2545 Filed 1-31-02; 8:45 am]

BILLING CODE 4910-15-U

DEPARTMENT OF TRANSPORTATION**Coast Guard****33 CFR Part 165**

[CGD07-01-136]

RIN 2115-AA97

Security Zones; St. Thomas, U.S. Virgin Islands

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary security zones 50 yards around all cruise ships in the Port of Charlotte Amalie, St. Thomas, USVI. These security zones are needed to protect the public and the Port of Charlotte Amalie from potential subversive acts. No person or vessel will be permitted to enter or remain in these security zones unless specifically authorized by the Captain of the Port San Juan, or his designated representative.

DATES: This regulation becomes effective at 6 p.m. on December 19, 2001 and will terminate at 11:59 p.m. on June 15, 2002.

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 [CGD07-01-136] and are available for inspection or copying at Marine Safety Office San Juan, RODVAL Bldg, San Martin St. #90 Ste 400, Guaynabo, PR 00968, between 7 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Robert Lefevers, Marine Safety Office San Juan, Puerto Rico, at (787) 706-2440.

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. The

Coast Guard will issue a broadcast notice to mariners and a Marine Safety Information Bulletin via facsimile and electronic mail to advise mariners of the restriction.

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**.

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 by vessels or persons in close proximity to the Port of Charlotte Amalie, U.S. Virgin Islands (USVI) against cruise ships in the Port.

Due to the number of passengers onboard cruise ships while moored in the Port of Charlotte Amalie, USVI, there is a risk that they are a target for subversive activity or a terrorist attack. The Captain of the Port San Juan is reducing this risk by prohibiting all vessels from coming within 50 yards of cruise ships while entering, departing, moored at any pier, or anchored in any anchorage in the Port of Charlotte Amalie, St. Thomas, USVI unless prior authorization is given by the Captain of the Port of San Juan. These temporary security zones are activated when cruise ships pass: St. Thomas Harbor green lighted buoy #3 in approximate position 18°19'19" North, 64°55'40" West when entering the port using St. Thomas Channel; red buoy #2 in approximate position 18°19'15" North, 64°55'59" West when entering the port using East Gregorie Channel; and red lighted buoy #4 in approximate position 18°18'16" North, 64°57'30" West when entering the port using West Gregorie Channel. These zones are deactivated when the vessel passes any of these buoys on its departure from port. United States Coast Guard and territorial law enforcement personnel will be enforcing these security zones.

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 Transportation (DOT) (44 FR 11040; February 26, 1979) because the zones are narrow in scope

and are only in effect for limited periods of time when a cruise ship is in Port.

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.

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 the zones are narrow in scope and are only in effect for limited periods of time when a cruise ship is in Port. Moreover, vessels may be allowed to enter the zones on a case-by-case basis with the permission of the Captain of the Port of San Juan.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the 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 calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

A rule has implication 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.

Environmental

The Coast Guard has considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M14475.1D that this rule is categorically excluded from further environmental documentation. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

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 relationships 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 Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports 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. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–136 is added to read as follows:

§ 165.T07–136 Security Zones; Charlotte Amalie Harbor, St. Thomas, USVI.

(a) *Regulated area.* Temporary moving security zones are established 50 yards around all cruise ships while they enter, depart, are moored at any pier or anchored in any anchorage in Charlotte Amalie Harbor. These temporary security zones are activated when cruise ships pass: St. Thomas Harbor green lighted buoy #3 in approximate position 18°19'19" North, 64°55'40" West when entering the port using St. Thomas Channel; red buoy #2 in approximate position 18°19'15" North, 64°55'59" West when entering the port using East Gregorie Channel; and red lighted buoy #4 in approximate position 18°18'16" North, 64°57'30" West when entering the port using West Gregorie Channel. These zones are deactivated when the cruise ship passes any of these buoys on its departure from port.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, no person or vessel shall enter or remain in this security zone unless specifically authorized by the Captain of the Port San Juan, a Coast Guard commissioned, warrant, or petty officer designated by him or a designated West

Indies Company Security or Virgin Islands Port Authority Security Manager. The Captain of the Port will notify the public when a zone is activated and any changes in the status of the zones by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (157.1 Mhz) and by a Marine Safety Information Bulletin (MSIB) sent by facsimile and electronic mail.

(c) *Dates.* This section becomes effective at 6 p.m. on December 19, 2001 and will terminate at 11:59 p.m. on June 15, 2002.

Dated: December 17, 2001.

J.A. Servidio,

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

[FR Doc. 02–2546 Filed 1–31–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07–02–002]

RIN 2115–AA97

Security Zones; St. Croix, U.S. Virgin Islands

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is extending the temporary fixed security zone around all commercial tank and freight vessels moored at every dock at the HOVENSA refinery at St. Croix, U.S. Virgin Islands. All persons aboard commercial tank and freight vessels moored at the HOVENSA docks must remain on board for the duration of the port call unless escorted by designated HOVENSA personnel or specifically permitted to disembark by the U.S. Coast Guard Captain of the Port San Juan. This security zone is needed for national security reasons to protect the public and port of HOVENSA from potential subversive acts.

DATES: This regulation becomes effective at 5 a.m. on January 9, 2002 and will terminate at 11:59 p.m. on June 15, 2002.

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 [CGD07–02–002] and are available for inspection or copying at Marine Safety Office San Juan, RODVAL Bldg, San Martin St. #90 Ste 400, Guaynabo, PR 00968, between 7 a.m. and 3:30 p.m.

Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Robert Lefevers, Marine Safety Office San Juan, Puerto Rico at (787) 706–2440.

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. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restriction.

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**.

Background and Purpose

Due to the highly volatile nature of the substances stored at the HOVENSA facility, there is a risk that subversive activity could be launched by persons aboard commercial tank and freight vessels calling at the HOVENSA facility in St. Croix, USVI. The Captain of the Port San Juan is reducing this risk by prohibiting all persons aboard these vessels from disembarking while moored at the HOVENSA facility unless escorted by designated HOVENSA personnel or specifically permitted by the Captain of the Port San Juan. HOVENSA security personnel, in conjunction with local police department personnel, will be present to enforce this security zone. A security zone regulation for the same location was published in the **Federal Register** on September 28, 2001 (66 FR 49534). However, that regulation expired at 11:59 p.m. on October 15, 2001. We extended this security zone in CGD07–01–125 until December 31, 2001. The Captain of the Port San Juan has identified the need to keep a security zone in place for national security reasons and to protect the public and the port of HOVENSA from potential subversive acts.

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