

eRulemaking Portal at <http://www.regulations.gov> (indicate IRS and REG-148399-02 or RIN 1545-BB62).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Grant Anderson, (202) 622-4970; concerning submission of comments and/or requests for a public hearing, LaNita VanDyke, (202) 622-7180 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Background and Explanation of Provisions**

Final and temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 263A(f) of the Internal Revenue Code (Code). The temporary regulations generally provide that a purchase money obligation given by the lessor to the lessee (or a party related to the lessee) in a safe harbor sale and leaseback transaction under former section 168(f)(8) is not "eligible debt" as defined in § 1.263A-9(a)(4). The text of those regulations also serves as the text of these proposed regulations. The preamble to the final and temporary regulations explains the amendments.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested

in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these regulations is Grant Anderson of the Office of Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

**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.** Section 1.263A-9 is revised by adding a new paragraph (a)(4)(ix) to read as follows:

[The text of proposed § 1.263A-9(a)(4)(ix) is the same as the text of § 1.263A-9T(a)(4)(ix) published elsewhere in this issue of the **Federal Register**.]

**Par. 3.** Section 1.263A-15 is amended by adding a new paragraph (a)(3) to read as follows:

**§ 1.263A-15 Effective dates, transitional rules, and anti-abuse rules.**

(a) \* \* \*

(3) [The text of proposed paragraph (a)(3) of § 1.263A-15 is the same as the text of § 1.263A-15T(a)(3) published elsewhere in this issue of the **Federal Register**.]

\* \* \* \* \*

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 04-11361 Filed 5-19-04; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[CGD14-04-116]

RIN 1625-AA00

**Security Zones; Oahu, Maui, Hawaii, and Kauai, Hawaii**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to make changes to existing permanent security zones in designated waters adjacent to the islands of Oahu, Maui, Hawaii, and Kauai, Hawaii. These revised security zones, which would extend from the surface of the water to the ocean floor, are necessary to protect personnel, vessels, and facilities from acts of sabotage or other subversive acts, accidents, or other causes of a similar nature. Some of the proposed revised security zones would be enforced at all times while others would only be subject to enforcement during heightened threat conditions. Entry into a security zone would be prohibited unless authorized by the Captain of the Port.

**DATES:** Comments and related material must reach the Coast Guard on or before July 19, 2004.

**ADDRESSES:** You may mail comments and related material to Commanding Officer, U.S. Coast Guard Sector Central Pacific, Sand Island Access Road, Honolulu, Hawaii 96819. Sector Central Pacific 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, would become part of this docket and would be available for inspection or copying at Coast Guard Sector Central Pacific between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LTJG C. Thomas, U. S. Coast Guard Sector Central Pacific at (808) 541-1440.

**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 (CGD14-04-116), 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 your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We would consider all comments and material received during the comment period. We may change this proposed rule in view of them.

To provide additional notice, we would place a notice of our proposed rule in the Local Notice to Mariners. You may access the Local Notice to Mariners at the following Web site: <http://www.navcen.uscg.gov/lnm/d14>.

In our final rule, we would include a concise general statement of comments received and identify any changes from the proposed rule based on the comments. If we would make the final rule effective in less than 30 days after publication in the **Federal Register**, we would explain our good cause for doing so as required by 5 U.S.C. 553(d)(3).

#### 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 Central Pacific, Honolulu at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we would hold one at a time and place announced by a separate notice in the **Federal Register**.

#### Background and Purpose

The terrorist attacks against the United States that occurred on September 11, 2001, have emphasized the need for the United States to establish heightened security measures in order to protect the public, ports and waterways, and the maritime transportation system from future acts of terrorism or other subversive acts. The terrorist organization al Qaeda and other similar groups remain committed to conducting armed attacks against U.S. interests, including civilian targets within the United States. Accordingly, the President has continued the national emergencies he declared following the attacks (67 FR 58317, September 13, 2002) (continuing national emergency with respect to terrorist attacks), (68 FR 55189, September 18, 2003) (continuing national emergency with respect to persons who commit, threaten to commit, or support acts of terrorism.) Pursuant to the Magnuson Act, 50 U.S.C. 191, *et seq.*, the President has also found that the security of the United States is and continues to be endangered by the September 11, 2001 attacks (E.O. 13272, 67 FR 56215,

September 2002). National security and intelligence officials warn that future terrorist attacks are likely.

In response to this threat, on April 25, 2003, the Coast Guard established permanent security zones in designated waters surrounding the Hawaiian Islands. (68 FR 20344, April 25, 2003.) These security zones have been in operation for almost 1 year. Based upon public feedback as well as Coast Guard guidance requiring the periodic review of port and harbor security procedures, the Coast Guard proposes to continue the current security zones, but at a reduced size and scope so as to afford acceptable protection to critical assets and maritime infrastructure while minimizing the disruption to maritime commerce and the inconvenience to small entities.

The proposed changes would affect permanent existing security zones in the waters surrounding the islands of Oahu, Maui, Kauai, and Hawaii. Those areas affected include the 12 permanent security zones for the following locations and facilities: (1) Honolulu Harbor, (2) Honolulu Harbor General Anchorages B, C, and D, (3) Kalihi Channel and Keehi Lagoon, Oahu, (4) Honolulu International Airport, (5) Barbers Point Offshore Moorings (consisting of the Tesoro Single Point Moorings and the Chevron Conventional Buoy Moorings), (6) Kahului Harbor, Maui, (7) Nawiliwili Harbor, Lihue, Kauai, (8) Port Allen, Kauai, (9) Hilo Harbor, Hawaii, (10) Lahaina, Maui, (11) Kailua-Kona, Hawaii, and (12) Barbers Point Harbor, Oahu.

In addition, the existing permanent security zone located at General Anchorage A in the vicinity of Honolulu Harbor and entrance channel would be eliminated. When enforced by the Captain of the Port or his designate, persons and vessels must not enter these security zones without the express permission of authorized Coast Guard officials.

#### Discussion of Proposed Rule

Due to national security interests, the implementation of these security zones is necessary for the protection of the public, port facilities, and waterways in the Hawaiian Islands. The proposed security zones would be located in the waters adjacent to the islands of Oahu, Maui, Hawaii, and Kauai, Hawaii. These zones would vary in size and shape depending on the location and the protective scope of the zone. All zones would, however, extend from the surface of the water to the ocean floor.

The security zones proposed under this notice may be divided into two categories: (1) those security zones that

are subject to enforcement at all times, and (2) those security zones that are subject to enforcement only during heightened threat conditions, as provided for in this rule. When the zones are subject to enforcement, persons and vessels are prohibited from entering any of these security zones without the express permission of the Captain of the Port.

The first category includes designated waters where security zones would be continuously in effect and subject to enforcement at all times, including security zones applicable to Honolulu Harbor, Barbers Point Offshore Moorings (consisting of the Tesoro Single Point Mooring and the Chevron Conventional Buoy Mooring), and the Honolulu International Airport.

The second category includes designated waters where the security zones would be subject to enforcement only during heightened threat conditions. This category includes the security zones located at Honolulu Harbor Anchorages B, C, and D, Kahului Harbor, Maui; Nawiliwili Harbor, Lihue, Kauai; Port Allen, Kauai; Hilo Harbor, Hawaii; Lahaina Harbor, Maui; Kailua-Kona Harbor, Hawaii; and Kalihi Channel and Keehi Lagoon, Oahu.

The security zones applicable to Honolulu Harbor Anchorages B, C, and D, would be subject to enforcement only upon the occurrence of a specific event; namely, upon the authorized anchoring of any vessel in excess of 300 gross tons within one of the designated anchorage areas. When anchored, the security zone would extend 100 yards from the vessel in all directions over surrounding waters.

The security zones at Kahului Harbor, Maui; Nawiliwili Harbor, Lihue, Kauai; Port Allen, Kauai; and Hilo Harbor, Hawaii; would be subject to enforcement upon the occurrence of a specific event; namely, the arrival of any large cruise ship (LCS), as defined by this rule, within the designated enforcement area. When the LCS is in transit in the designated enforcement area, the security zone would move with the vessel and extend 100 yards in all directions over surrounding waters. When the LCS is anchored, position keeping, or moored in the designated enforcement area, the security zone would remain fixed and would extend 100 yards from the vessel in all directions over surrounding waters.

The security zones at Lahaina, Maui and Kailua-Kona, Hawaii, would be subject to enforcement once a large cruise ship comes within 3 nautical miles of the port and would extend 100 yards from the LCS in all directions over surrounding waters. The 100 yard

security zone around each LCS would be enforced whether the LCS is underway, moored, position keeping, or anchored, and would continue in effect until such time as the LCS departs the port and the 3 mile enforcement area.

The security zones at Kalihi Channel and Keehi Lagoon, Oahu, and Barbers Point Harbor, Oahu, would be subject to enforcement only upon the occurrence of one of the following events—

1. Whenever the Maritime Security (MARSEC) Level, as defined in 33 CFR part 101, is raised to 2 or higher; or,
2. Whenever the Captain of the Port, after considering all available facts, determines that there is a heightened risk of a transportation security incident or other serious maritime incident, including but not limited to any incident that may cause a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area.

The Captain of the Port would cause notice of the enforcement of security zones at Kahului Harbor, Maui; Nawiliwili Harbor, Lihue, Kauai; Port Allen, Kauai; Hilo Harbor, Hawaii; Lahaina, Maui; Kailua-Kona, Hawaii; Kalihi Channel and Keehi Lagoon, Oahu; and Barbers Point Harbor, Oahu, to be made by all appropriate means to effect the widest publicity among affected segments of the public, including local notice to mariners and broadcast notice to mariners. By the same means, the Captain of the Port will also cause notice of the suspension of enforcement of these security zones in this rule to be made.

Entry into these security zones is prohibited unless authorized by the Coast Guard Captain of the Port Honolulu, Hawaii. Unless and until superseded by a notice of enforcement, a notice of suspension of enforcement grants general permission to enter the specified security zone. Representatives of the Captain of the Port Honolulu would enforce these security zones. The Captain of the Port may be assisted by other federal or state agencies to the extent permitted by law.

These security zones are established pursuant to the authority of the Magnuson Act, 50 U.S.C. 191, *et seq.*, and regulations promulgated by the President under Title 33, Part 6 of the Code of Federal Regulations. Vessels or persons violating this section are subject to the penalties set forth in 50 U.S.C. 192, including possible seizure and forfeiture of the vessel, imprisonment for not more than 10 years, and a civil penalty of not more than \$25,000 for each violation.

### 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.

The Coast Guard expects the economic impact of this proposed 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 short duration of the most of the zones and the limited geographic area affected by the zones.

### 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 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 proposed rule would not have a significant economic impact on a substantial number of small entities. While we are aware that many affected areas have small commercial entities, including canoe and boating clubs and small businesses that provide recreational services, we anticipate that there would be little or no impact to these small entities due to the narrowly-tailored scope of these security zones.

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

Because we anticipate little or no small business impact, we did not offer assistance to small entities in understanding the rule.

### Collection of Information

This proposed 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 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This proposed rule would not affect 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 might 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. 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 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. 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.

### Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation. A “Categorical Exclusion Determination” is available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

For the reasons set out 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, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Section 165.1407 is revised to read as follows:

#### § 165.1407 Security Zones; Oahu, Maui, Hawaii, and Kauai, HI

(a) *Definitions.* As used in this section—

*Large cruise ship or LCS* means a passenger vessel over 300 feet in length that carries passengers for hire.

*MARSEC Level 2 or Maritime Security Level 2* means, as defined in 33 CFR 101.105, the level for which appropriate additional protective security measures shall be maintained for a period of time

as a result of heightened risk of a transportation security incident.

(b) *Location.* The following areas, from the surface of the water to the ocean floor, are security zones that will be enforced subject to the provisions in paragraph (c). All coordinates in this section are expressed in degrees, minutes, and tenths of minutes.

(1) *Honolulu Harbor.* All waters of Honolulu Harbor and Honolulu entrance channel commencing at a line between entrance channel buoys no. 1 and no. 2, to a line between the fixed day beacons no. 14 and no. 15 west of Sand Island Bridge.

(2) *Honolulu Harbor Anchorages B, C, and D.* The waters extending 100 yards in all directions from each authorized vessel in excess of 300 gross tons that is anchored in Honolulu Harbor Anchorage B, C, or D, as defined in 33 CFR 110.235(a).

(3) *Kalihi Channel and Keehi Lagoon, Oahu.* All waters of Kalihi Channel and Keehi Lagoon beginning at Kalihi Channel entrance buoy no. 1 and continuing along the general trend of Kalihi Channel to day beacon n. 13 thence continuing on a bearing of 332.5°T to shore. Thence east and south along the general trend of the shoreline to day beacon no. 15 thence southeast to day beacon no. 14, thence southeast along the general trend of the shoreline of Sand Island to, to the southwest tip of Sand Island at 21°18.0′N/157°53.05′W. Thence southwest on a bearing of 233°T to Kalihi Channel entrance buoy no. 1.

(4) *Honolulu International Airport.* All waters surrounding Honolulu International Airport from 21°18.25′N/157°55.58′W thence south to 21°18.0′N/157°55.58′W thence east to the western edge of Kalihi Channel, thence north along the western edge of the channel to day beacon no. 13 thence northwest at a bearing of 332.5°T to shore.

(5) *Barbers Point Offshore Moorings.* The waters around the Tesoro Single Point and the Chevron Conventional Buoy Moorings beginning at 21°16.43′N, 158°06.03′W; thence northeast to 21°17.35′N, 158°3.95′W; thence southeast to 21°16.47′N, 158°03.5′W; thence southwest to 21°15.53′N, 158°05.56′W; thence north to the beginning point.

(6) *Kahului Harbor, Maui.* The waters extending 100 yards in all directions from each large cruise ship whenever the LCS is in Kahului Harbor, Maui, HI or within 3 nautical miles seaward of the Kahului Harbor COLREGS DEMARCATION (See 33 CFR 80.1460). This is a moving security zone when the LCS is in transit and becomes a fixed

zone when the LCS is anchored, position keeping, or moored.

(7) *Nawiliwili Harbor, Lihue, Kauai.* The waters extending 100 yards in all directions from each large cruise ship whenever the LCS is in Nawiliwili Harbor, Kauai, HI or within 3 nautical miles seaward of the Nawiliwili Harbor, Kauai COLREGS DEMARCATION (See 33 CFR 80.1450). This is a moving security zone when the LCS is in transit and becomes a fixed zone when the LCS is anchored, position keeping, or moored.

(8) *Port Allen, Kauai.* The waters extending 100 yards in all directions from each large cruise ship whenever the LCS is in Port Allen, Kauai, HI or within 3 nautical miles seaward of the Port Allen COLREGS DEMARCATION (See 33 CFR 80.1440). This is a moving security zone when the LCS is in transit and becomes a fixed zone when the LCS is anchored, position keeping, or moored.

(9) *Hilo Harbor, Hawaii.* The waters extending 100 yards in all directions from each large cruise ship whenever the LCS is in Hilo Harbor, Hawaii, HI or within 3 nautical miles seaward of the Hilo Harbor COLREGS DEMARCATION (See 33 CFR 80.1480). This is a moving security zone when the LCS is in transit and becomes a fixed zone when the LCS is anchored, position keeping, or moored.

(10) *Lahaina, Maui.* The waters extending 100 yards in all directions from each large cruise ship in Lahaina, Maui, whenever the LCS is within 3 nautical miles of Lahaina Light (LLNR 28460). The security zone around each LCS will be active and enforced whether the cruise ship is underway, moored, position keeping, or anchored, and will continue in effect until such time as the LCS departs Lahaina and the three mile enforcement area.

(11) *Kailua-Kona, Hawaii.* The waters extending 100 yards in all directions from each large cruise ship in Kailua-Kona, Hawaii, whenever the LCS is within 3 nautical miles of Kukailimoku Point. The 100 yard security zone around each LCS will be active and enforced whether the LCS is underway, moored, position keeping, or anchored, and will continue in effect until such time as the LCS departs Kailua-Kona and the 3 mile enforcement area.

(12) *Barbers Point Harbor, Oahu.* All waters contained within the Barbers Point Harbor, Oahu, enclosed by a line drawn between Harbor Entrance Channel Light 6 and the jetty point day beacon at 21°–19.5′N/158°–07.26′W.

(c) *Notice of enforcement or suspension of enforcement of security zones.*

(1) The security zones in paragraphs (b)(1) (Honolulu Harbor), (b)(4) (Honolulu International Airport), and (b)(5) (Barbers Point Offshore Moorings) are subject to enforcement at all times.

(2) The security zones in paragraphs (b)(3) (Kalihi Channel and Keehi Lagoon, Oahu), and (b)(12) (Barbers Point Harbor, Oahu) will be subject to enforcement only upon the occurrence of one of the following events—

(i) Whenever the Maritime Security (MARSEC) Level, as defined in 33 CFR part 101, is raised by the Commandant of the Coast Guard to 2 or higher; or

(ii) Whenever the Captain of the Port, after considering all available facts, determines that there is a heightened risk of a transportation security incident or other serious maritime incident, including but not limited to any incident that may cause a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area. The Captain of the Port of Honolulu will cause notice of the enforcement of these security zones to be made by all appropriate means to affect the widest publicity, including the use of broadcast notice to mariners and publication in the local notice to mariners.

(iii) A notice will be published in the **Federal Register** reporting when events in paragraph (c)(2)(i) or (c)(2)(ii) have occurred.

(3) The large cruise ship security zones in paragraph (b)(6) (Kahului Harbor, Maui), (b)(7) (Nawiliwili Harbor, Lihue, Kauai), (b)(8) (Port Allen, Kauai), (b)(9) (Hilo Harbor, Hawaii), (b)(10) (Lahaina, Maui), and (b)(11) (Kailua-Kona, Hawaii), will be subject to enforcement upon the arrival of a LCS, as defined by this section, within the areas designated in paragraph (b). The Captain of the Port will cause notice of the enforcement of these security zones to be made by all appropriate means to affect the widest publicity, including the use of broadcast notice to mariners and publication in the local notice to mariners.

(4) The security zones in paragraph (b)(2) (Honolulu Harbor Anchorages B, C, and D) will be subject to enforcement upon the authorized anchoring of any vessel in excess of 300 gross tons within the anchorage area designated in paragraph (b). The Captain of the Port will cause notice of the enforcement of these security zones to be made by all appropriate means to affect the widest publicity, including the use of broadcast notice to mariners and publication in the local notice to mariners.

(5) The Captain of the Port will cause notice of the suspension of enforcement

of these security zones in this paragraph to be made by all appropriate means to affect the widest publicity, including the use of broadcast notice to mariners and publication in the local notice to mariners. During periods of suspension the COTP grants general permissions to enter specified security zones.

(d) *Enforcement:* Any Coast Guard commissioned, warrant or petty officer may enforce the security zones in this section.

(e) *Regulations.* (1) Under 33 CFR 165.33, entry into these security zones is prohibited unless authorized by the Coast Guard Captain of the Port, Honolulu or his designated representatives. When authorized passage through a large cruise ship security zone, all vessels must operate at the minimum speed necessary to maintain a safe course and must proceed as directed by the Captain of the Port or large cruise ship master. No person is allowed within 100 yards of a large cruise ship that is underway, moored, position keeping, or anchored, unless authorized by the Captain of the Port or his designated representatives.

(2) When conditions permit, the Captain of the Port, or authorized designate, may permit vessels that are at anchor, restricted in their ability to maneuver, or constrained by draft to remain within a large cruise ship security zone in order to ensure navigational safety.

(3) Persons desiring to transit the areas of the security zones may contact the Captain of the Port at command center telephone number (808) 541-2477 or (800) 552-6458, or on VHF channel 16 (156.8 Mhz) to seek permission to transit the area. Written requests may be submitted to the Captain of the Port, U.S. Coast Guard Sector Central Pacific, Sand Island Access Road, Honolulu, Hawaii 96819, or faxed to (808) 541-1431. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representatives.

(f) *Waiver.* The Captain of the Port of Honolulu may waive any of the requirements of this section for any vessel or class of vessels upon his or her determination that application of this section to that vessel or class of vessels is unnecessary or impractical for the purpose of port and maritime security.

(g) *Penalties.* Any violation of the security zones described herein may result in the imposition of civil penalties (not to exceed \$25,000 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 10

years and a fine of not more than \$10,000), seizure and forfeiture of the offending vessel, and other administrative sanctions authorized by law.

Dated: April 7, 2004.

**C.D. Wurster,**

*Rear Admiral, U.S. Coast Guard, Commander, Fourteenth Coast Guard District.*

[FR Doc. 04-11393 Filed 5-19-04; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 51

[FRL-7664-9; OAR-2002-0076]

### Regional Haze Regulations and Guidelines for Best Available Control Technology (BART) Determinations; Notice of Public Hearing

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

**ACTION:** Notice of public hearing.

**SUMMARY:** The EPA is announcing two public hearings for the proposed rule “Regional Haze Regulations and Guidelines for Best Available Control Technology (BART) Determinations” (69 FR 25184, May 5, 2004). The first public hearing will be held on June 4, 2004, in Alexandria, VA, and the second public hearing will be held on June 15, 2004, in Denver, CO. (The EPA will be holding a separate public hearing for a related proposal, “Supplemental Proposal for the Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule),” at the same facility in Alexandria, VA, on June 3, 2004. The EPA is holding the hearings on consecutive days to facilitate travel plans for persons wishing to attend both hearings.)

On July 1, 1999, EPA promulgated regulations to address regional haze (64 FR 3714). These regulations were challenged, and on May 24, 2002, the U.S. Court of Appeals for the District of Columbia Circuit issued a ruling vacating the regional haze rule in part and sustaining it in part. *American Corn Growers Ass’n v. EPA*, 291 F.3d 1 (D.C. Cir. 2002). The May 5, 2004 proposal (hereinafter referred to as the “BART rule”) addresses the court’s ruling in that case.

In addition, prior to the court’s decision, EPA had proposed guidelines for implementation of the BART requirements under the regional haze rule (66 FR 38108; July 20, 2001). The proposed guidelines were intended to