

designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

(3) No person may enter the waters within the boundaries of the safety zone unless previously authorized by the Captain of the Port, Boston or his authorized patrol representative.

Dated: December 14, 2001.

**B.M. Salerno,**

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

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP MIAMI-01-115]

RIN 2115-AA97

**Security Zones; Port of Palm Beach, Palm Beach, FL; Port Everglades, Fort Lauderdale, FL; Port of Miami, Miami, FL; and Port of Key West, Key West, FL**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing temporary moving security zones 100 yards around all tank vessels loaded with hazardous cargo and passenger vessels with passengers aboard when these vessels enter or depart the Ports of Palm Beach, Port Everglades, Miami or Key West, Florida. We are also establishing temporary fixed security zones 100 yards around all tank vessels loaded with hazardous cargo and passenger vessels with passengers aboard when these vessels are moored in the Ports of Palm Beach, Port Everglades, Miami, or Key West, Florida. These security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these zones is prohibited, unless specifically authorized by the Captain of the Port, Miami, Florida, or his designated representative.

**DATES:** This rule is effective from 11:59 p.m. on September 25, 2001 until 11:59 p.m. on June 15, 2002 unless terminated earlier by the Captain of the Port, Miami, Florida.

**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 COTP Miami 01-115 and are available for inspection or copying at Marine Safety Office Miami, 100 MacArthur Causeway, Miami Beach, FL 33139, between 7:30 p.m. and 4 p.m. Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

LCDR Joseph Boudrow, Coast Guard Marine Safety Office Miami, at (305) 535-8701.

#### 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, which would incorporate a comment period before a final rule was issued, would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard vessels in the vicinity to advise mariners of the restriction.

##### 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 Ports of Palm Beach, Miami, Port Everglades, and Key West, Florida against tank vessels and cruise ships entering, departing and moored within these ports. There will be Coast Guard and local police department patrol vessels on scene to monitor traffic through these areas.

The security zone for the Port of Palm Beach is activated when a subject vessel passes the "LW" buoy, at approximate position 26° 46' 18N, 080° 00' 36W. The security zone for the Port of Miami is activated when a subject vessel passes the "M" buoy, at approximate position 25° 46' 06N, 080° 05' 00W. The Port Everglades security zone starts when a subject vessel passes "PE" buoy, at approximate position 26° 05' 30N, 080° 04' 48W. And the security zone for the Port of Key West is activated when a subject vessel passes "KW" buoy, at approximate position 24° 27' 42N, 081° 48' 06W. The zone for a vessel is deactivated when the vessel passes these buoys on its departure from port.

The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz) of all active security zones in the ports by identifying the names of the vessels around which the zones are centered. Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port, Miami, Florida.

##### 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).

##### 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 small entities may be allowed to enter the zone on a case by case basis with the authorization of the Captain of the Port.

##### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offer to assist small entities in understanding 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 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 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 Party

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. It is not economically significant and creates no environmental risk to health or risk to safety disproportionately affecting children.

#### Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1D, 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.

#### 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.T07-115 is added to read as follows:

#### § 165.T07-115 Security Zones; Ports of Palm Beach, Port Everglades, Miami, and Key West, Florida.

(a) *Regulated area.* Temporary moving security zones are established 100 yards around all tank vessels with hazardous cargo onboard and all passenger vessels with passengers aboard during transits entering or departing the Ports of Palm Beach, Port Everglades, Miami or Key West, Florida. These moving security zones are activated when the subject

vessel passes: "LW" buoy, at approximate position 26° 46' 18N, 080° 00' 36W when entering the Port of Palm Beach, passes "PE" buoy, at approximate position 26° 05' 30N, 080° 04' 48W when entering Port Everglades; the "M" buoy, at approximate position 25° 46' 06N, 080° 05' when entering the Port of Miami; and "KW" buoy, at approximate position 24° 27' 42N, 081° 48' 06W when entering the Port of Key West. Temporary fixed security zones are established 100 yards around all tank vessels with hazardous cargo onboard and all passenger vessels with passengers aboard docked in the Ports of Palm Beach, Port Everglades, Miami or Key West, Florida.

(b) *Regulations.* In accordance with the general regulations of § 165.33 of this part, entry into these zones is prohibited except as authorized by the Captain of the Port, Miami or a Coast Guard commissioned, warrant, or petty officer designated by him. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz) of all active security zones in port by identifying the names of the vessels around which they are centered.

(c) *Dates.* This regulation becomes effective at 11:59 p.m. on September 25, 2001 and will terminate at 11:59 p.m. on June 15, 2002 unless terminated earlier by the Captain of the Port, Miami, Florida.

Dated: September 25, 2001.

**J.A. Watson, IV,**

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

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 180

[OPP-301193; FRL-6812-5]

**RIN 2070-AB78**

#### Indian Meal Moth Granulosis Virus; Exemption From the Requirement of a Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of the Indian Meal Moth Granulosis Virus on dried fruits and nuts when applied/used as a microbial pesticide to control the Indian Meal Moth (*Plodia interpunctella*). AriVir, LLC. submitted a petition to EPA