

deviation from the operating requirements listed in 33 CFR 117.300 to complete repairs to the bridge. Under this deviation the Florida East Coast Railway bridge, across the Loxahatchee River, mile 1.2, Jupiter, Florida, need not open from 8 a.m. to 12:30 p.m. and 1 p.m. to 5 p.m. Monday through Friday from February 10 until March 12, 2004.

Dated: February 3, 2004.

**Greg Shapley,**

*Chief, Bridge Administration, Seventh Coast Guard District.*

[FR Doc. 04-2990 Filed 2-10-04; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD05-03-205]

RIN 1625-AA00

#### Security Zone; Military Ocean Terminal Sunny Point and Lower Cape Fear River, Brunswick County, NC

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone at Military Ocean Terminal Sunny Point (MOTSU), North Carolina. Entry into or movement within the security zone will be prohibited without authorization from the Captain of the Port (COTP). This action is necessary to safeguard the vessels and the facility from sabotage, subversive acts, or other threats.

**DATES:** This rule is in effect from 12:01 a.m. e.s.t. on January 13, 2004 to 12:01 a.m. e.d.t. on June 13, 2004.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket CGD05-03-205 and are available for inspection or copying at Coast Guard Marine Safety Office, 721 Medical Center Drive, Suite 100, Wilmington, North Carolina 28401, between 7:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LCDR Chuck Roskam, Chief Port Operations (910) 772-2200 or toll free (877) 229-0770.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. The Coast Guard is promulgating this security zone regulation to protect Military Ocean

Terminal Sunny Point, NC, and the surrounding vicinity from threats to national security. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rule-making and advance publication, pursuant to 5 U.S.C. 553(b) and (c), are not required for this regulation.

##### Background and Purpose

Vessels frequenting the security zone at Military Ocean Terminal Sunny Point (MOTSU) facility serve as a vital link in the transportation of military munitions and explosives in support of Department of Defense missions at home and abroad. This vital transportation link is potentially at risk to acts of terrorism, sabotage and other criminal acts. Munitions and explosives laden vessels also pose a unique threat to the safety and security of the MOTSU facility, vessel crews, and others in the maritime community and the surrounding community should the vessels be subject to acts of terrorism or sabotage, or other criminal acts. The ability to control waterside access to munitions and explosives laden vessels moored to the MOTSU facility is critical to national defense and security, as well as to the safety and security of the MOTSU facility, vessel crews, and others in the maritime community and the surrounding community. Therefore, the Coast Guard is establishing this security zone to safeguard human life, vessels and facilities from sabotage, terrorist acts or other criminal acts.

##### Discussion of Rule

The security zone is necessary to protect MOTSU and vessels moored at the facility, their crews, others in the maritime community and the surrounding communities from subversive or terrorist attack that could cause serious negative impact to vessels, the port, or the environment, and result in numerous casualties. The security zone contains the area and waters encompassed by a line connecting the northern tip of the security zone is at 34°02.03' N, 077°56.60' W, near Cape Fear River Channel Lighted Buoy 9 (LLNR 30355); extending south along the shore to 34°00.00' N, 077°57.25' W, proceeding to the southern most tip of the zone at 33°59.16' N, 077°50.00' W, at then proceeding north to 34°00.65' N, 077°56.41' W, at Cape Fear River Channel Lighted Buoy 31 (LLNR 30670 & 39905); then back to the point of origin at 34°02.03' N, 077°56.60' W.

No person or vessel may enter or remain in the security zone at any time without the permission of the Captain of the Port, Wilmington. Each person or

vessel operating within the security zone must obey any direction or order of the Captain of the Port. The Captain of the Port may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from this security zone.

##### 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).

Although this regulation restricts access to the security zone, the effect of this regulation will not be significant because: (i) The COTP or his or her representative may authorize access to the security zone; (ii) the security zone will be enforced for limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

##### 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 vicinity of Military Ocean Terminal Sunny Point. This includes owners and operators of vessels desiring to enter the security zone.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. The security zone is not located in an area that would impede commercial or recreational traffic.

### 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 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 the address listed under **ADDRESSES**.

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

### Taking of Private Property

This rule will 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 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.

### 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. A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under **ADDRESSES**.

### 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. Add § 165.T05–205 to read as follow:

#### § 165.T05–205 Security Zone: Military Ocean Terminal Sunny Point and Lower Cape Fear River, NC.

(a) *Location.* The following area is a security zone: The area and waters encompassed by a line connecting the following points: the northern tip of the security zone is at 34°02.03' N 077°56.60' W near Cape Fear River Channel Lighted Buoy 9 (LLNR 30355); extending south along the shore to 34°00.00' N, 077°57.25' W proceeding to the southern most tip of the Zone at 33°59.16' N, 077°57.00' W then proceeding north to 34°00.65' N, 077°56.41' W, at Cape Fear River Channel Lighted Buoy 31 (LLNR 30670 & 39905); then back to the point of origin at 34°02.03' N, 077°56.60' W.

(b) *Captain of the Port.* *Captain of the Port* means the Commanding Officer of the Marine Safety Office Wilmington, NC, or any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on his or her behalf.

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones in 33 CFR 165.33.

(2) Persons or vessels with a need to enter into or get passage within the security zone, must first request authorization from the Captain of the Port. The Captain of the Port's representative enforcing the Zone can be contacted on VHF marine band radio, channel 16. The Captain of the Port can be contacted at (910) 772–2000 or toll free (877) 229–0770.

(3) The operator of any vessel within or in the immediate vicinity of this security zone while it is being enforced must:

(i) Stop the vessel immediately upon being directed to do so by the Captain of the Port or his or her designated representative.

(ii) Proceed as directed by the Captain of the Port or his or her designated representative.

(d) *Effective period.* This section is in effect from 12:01 a.m. e.s.t., on January 13, 2004, to 12:01 a.m. e.d.t., on June 13, 2004.

Dated: January 13, 2004.

**Jane M. Hartley,**

*Captain, U.S. Coast Guard, Captain of the Port, Wilmington, North Carolina.*

[FR Doc. 04-2986 Filed 2-10-04; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2003-0344; FRL-7338-3]

#### **Aldicarb, Atrazine, Cacodylic Acid, Carbofuran, et al.; Tolerance Actions**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule revokes specific meat, milk, poultry, and egg (MMPE) tolerances for residues of the insecticides aldicarb, carbofuran, diazinon, and dimethoate; herbicides atrazine, metolachlor, and sodium acifluorfen; fungicides fenarimol, propiconazole, and thiophanate-methyl; and the defoliant cacodylic acid. EPA determined that there are no reasonable expectations of finite residues in or on meat, milk, poultry, or eggs for the aforementioned pesticide active ingredients and that these tolerances are no longer needed. Also, this document modifies specific fenarimol tolerances. The regulatory actions in this document contribute toward the Agency's tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2006 to reassess the tolerances in existence on August 2, 1996. Because all the tolerances were previously reassessed, no reassessments are counted here toward the August, 2006 review deadline.

**DATES:** This regulation is effective February 11, 2004. Objections and requests for hearings, identified by docket ID number OPP-2003-0344, must be received on or before April 12, 2004.

**ADDRESSES:** Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed

instructions as provided in Unit IV. of the **SUPPLEMENTARY INFORMATION.**

#### **FOR FURTHER INFORMATION CONTACT:**

Joseph Nevola, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8037; e-mail address: [nevola.joseph@epa.gov](mailto:nevola.joseph@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 manufacturing (NAICS 311)
- Pesticide manufacturing (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. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II.A. 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 Get Copies of This Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2003-0344. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., 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.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

##### **II. Background**

###### *A. What Action Is the Agency Taking?*

In this final rule, EPA is revoking 105 specific MMPE tolerances for residues of the insecticides aldicarb, carbofuran, diazinon, and dimethoate; herbicides atrazine, metolachlor, and sodium acifluorfen; fungicides fenarimol, propiconazole, and thiophanate-methyl; and the defoliant cacodylic acid because the Agency has concluded that there is no reasonable expectation of finite residues in or on the commodities associated with those tolerances, and therefore these tolerances are no longer needed. Also, EPA is modifying other specific fenarimol tolerances.

The determinations that there are no reasonable expectations of finite residues for the tolerances listed in this document were made based on feeding studies submitted since the time that the tolerances were originally established. These feeding studies used exaggerated amounts of the compound and did not show measurable residues of the pesticides tested. The Agency originally made these determinations in memoranda of March 6, 2002; March 25, 2002; April 21, 2002; July 1, 2002; and July 23, 2002. Because there was no expectation of finite residues, in subsequent memoranda of May 3, 2002; June 3, 2002; July 11, 2002; and July 23, 2002, respectively, the Agency declared these tolerances as safe and counted