



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2020-0011]

RIN 1625-AA87

Security Zone; Limetree Bay Terminals, St. Croix, U.S. Virgin Islands

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to modify the name and location of an existing security zone in St. Croix, U.S. Virgin Islands. This proposed rule would adjust the coordinates of the security zone and update the facility name from HOVENSA Refinery to Limetree Bay Terminals. The proposed rule would continue to prohibit persons and vessels from entering the security zone, unless authorized by the Captain of the Port San Juan or a designated representative. This action is necessary to better meet the safety and security needs of Limetree Bay Terminals in St. Croix, USVI. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2020-0011 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the

“Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander Pedro Mendoza, Sector San Juan Prevention Department, Waterways Management Division, U.S. Coast Guard; telephone 787-729-2374, email Pedro.L.Mendoza@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP	Captain of the Port
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code
USVI	U.S. Virgin Islands

II. Background, Purpose, and Legal Basis

The existing regulation in 33 CFR 165.770, contains a fixed security zone around the HOVENSA Refinery on the south coast of St. Croix, USVI. On November 21, 2019, the Coast Guard received a request to extend the regulated area of the security zone and update the facility name to Limetree Bay Terminals. Limetree Bay Terminals recently installed a Single Point Mooring system to enable deep draft vessel traffic to transfer to and from the facility. The location of the Single Point Mooring systems falls outside of the existing security zone. The proposed rule would increase the security zone by approximately 880 yards (.5 mile) to encompass their new mooring system.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters surrounding Limetree Bay Terminals. The Coast Guard is proposing this

rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).]

III. Discussion of Proposed Rule

The proposed rule would amend the existing fixed security zone in 33 CFR 165.770 to expand the regulated area and to update the facility name. We are proposing to increase the regulated area by approximately 880 yards (.5 mile) to encompass the new mooring system location installed by the facility. We are proposing to update the facility name to Limetree Bay Terminals to reflect its current ownership. Vessels may seek permission from the COTP to transit through the security zone.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on size and location of the security zone. Vessel traffic would be able to continue to safely transit around the security which

would impact a small designated area of southern St. Croix, USVI. The rule will allow vessels to seek permission to transit through the security zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 some owners or operators of vessels intending to transit the security zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

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.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small

entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, 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. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. 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 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves expanding an existing security zone and updating the facility name. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <https://www.regulations.gov> and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's Correspondence System of Records notice (84 FR 48645, September 26, 2018).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

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 is proposing 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: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5;

Department of Homeland Security Delegation No. 0170.1.

2. Revise § 165.770 to read as follows:

§ 165.770 Security Zone; Limetree Bay Terminals, St. Croix, U.S. Virgin Islands.

- (a) *Regulated area.* The Coast Guard is establishing a security zone in and around

Limetree Bay Terminals on the south coast of St. Croix, U.S. Virgin Islands. This

security zone includes all waters from surface to bottom, encompassed by an

imaginary line connecting the following points: Point 1 in position 17°41'48" N,

064°44'26" W; Point 2 in position 17°40'00" N, 064°43'36" W; Point 3 in position

17°39'36" N, 064°44'48" W; Point 4 in position 17°41'33" N, 064°45'08" W; then

tracing the shoreline along the water's edge to the point of origin. These coordinates

are based upon North American Datum 1983 (NAD 1983).

- (b) *Regulations.* (1) Under §165.33, entry into or remaining within the regulated area in

paragraph (a) of this section is prohibited unless authorized by the Coast Guard

Captain of the Port San Juan or vessels have a scheduled arrival at Limetree Bay

Terminals, St. Croix, in accordance with the Notice of Arrival requirements of 33

CFR part 160, subpart C.

- (2) Persons desiring to transit the area of the security zone may contact the COTP San Juan or designated representative at telephone number 787-289-2041 or on VHF-FM Channel 16. If permission is granted, all persons and vessels must comply with the instructions of the COTP or designated representative.

Dated: January 21, 2020.

E. P. King
Captain, U.S. Coast Guard,
Captain of the Port San Juan
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