

agency concludes that certification of mica-based pearlescent pigments is not necessary for the protection of the public health.

#### V. Inspection of Documents

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person. As provided in § 71.15, the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

#### VI. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for CAP 0C0271 (65 FR 36148, June 7, 2000). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

#### VII. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

#### VIII. Objections

Any person who will be adversely affected by this regulation may file with the Dockets Management Branch (see ADDRESSES) written objections by (see DATES). Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number

found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register**.

#### IX. References

1. Carberry, S. E., memorandum entitled "Use of Mica-Based Pearlescent Pigments as Colorants for Contact Lenses" from the Division of Petition Review (HFS-265) to the Division of Petition Review (HFS-265), Center for Food Safety and Applied Nutrition, FDA, March 28, 2002.

2. Johnson, C. B., memorandum entitled "Use of Mica-Based Pearlescent Pigments to Color Contact Lenses: Toxicology Review" from the Division of Petition Review (HFS-225) to the Division of Petition Review (HFS-215), Center for Food Safety and Applied Nutrition, FDA, November 9, 2001.

3. Center for Devices and Radiological Health, Premarket Notification (510(k)) Guidance Document for Daily Wear Contact Lenses, Addendum to Chemistry Guidance for Listing Color Additives in Contact Lenses, Part 5, p.149, (<http://www.fda.gov/cdrh/ode/conta.html>) May 1994.

4. Gittes, H. R., memorandum entitled "Eye Area Studies" from the Division of Toxicology (HFF-152) to the Petitions Control Branch (HFF-334), Center for Food Safety and Applied Nutrition, FDA, May 17, 1977.

#### List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 73 is amended as follows:

#### PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

1. The authority citation for 21 CFR part 73 continues to read as follows:

**Authority:** 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

2. Section 73.3128 is added to subpart D to read as follows:

#### § 73.3128 Mica-based pearlescent pigments.

(a) *Identity and specifications.* The color additive is formed by depositing titanium or iron salts from a basic solution onto mica, followed by calcination to produce titanium dioxide or iron oxides on mica. Mica used to manufacture the color additive shall conform in identity and specifications

to the requirements of § 73.1496(a)(1) and (b).

(b) *Uses and restrictions.* (1) Mica-based pearlescent pigments listed in paragraph (a) of this section may be used as a color additive in contact lenses in amounts not to exceed the minimum reasonably required to accomplish the intended coloring effect.

(2) Authorization and compliance with this use shall not be construed as waiving any of the requirements of sections 510(k), 515, and 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) with respect to the contact lenses in which the additive is used.

(c) *Labeling.* The label of the color additive shall conform to the requirements in § 70.25 of this chapter.

(d) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 721(c) of the act.

Dated: September 30, 2002.

**L. Robert Lake,**

*Director, Office of Regulations and Policy,  
Center for Food Safety and Applied Nutrition.*  
[FR Doc. 02-27048 Filed 10-23-02; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 8869]

RIN 1545-AU77

#### Subchapter S Subsidiaries; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to final regulations (TD 8869), which were published in the **Federal Register** on Tuesday, January 25, 2000 (65 FR 3843), relating to the treatment of corporate subsidiaries of S corporations.

**EFFECTIVE DATE:** January 25, 2000.

**FOR FURTHER INFORMATION CONTACT:** Jeanne M. Sullivan (202) 622-3070 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

#### Background

The final regulations that are the subject of this correction are under section 1361 of the Internal Revenue Code.

**Need for Correction**

As published, final regulations (TD 8869) contains an error which may prove to be misleading and is in need of clarification.

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

Income taxes, Reporting and recordkeeping requirements.

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

**PART 1—INCOME TAXES**

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

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

**§ 1.1361-5 [Corrected]**

2. In § 1.1361-5, paragraph (c)(1), the first sentence is amended by removing the language “paragraph (b) of this section)” and adding the language “§ 1.1362-5(b))” in its place.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel (Income Tax and Accounting).

[FR Doc. 02-27042 Filed 10-23-02; 8:45 am]

BILLING CODE 4830-01-P

**DEPARTMENT OF DEFENSE****Department of the Army; Corps of Engineers****33 CFR Part 334****United States Navy Restricted Area, Narragansett Bay, East Passage, Coddington Cove, RI**

**AGENCY:** United States Army Corps of Engineers, DoD.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Army Corps of Engineers is amending its regulations to establish a restricted area in waters adjacent to Naval Station Newport in Newport, Rhode Island. This amendment will close off an open area in Coddington Cove east of a line that connects Coddington Point at latitude 41° 31' 24.0" N, longitude 071° 19' 24.0" W; with the outer end of the Coddington Cove Breakwater on the north side of the cove at latitude 41° 31' 55.7" N, longitude 071° 19' 28.2" W. The regulations are necessary to safeguard Navy vessels and United States Government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature. These regulations are also necessary to protect the public from potentially hazardous conditions which may exist as a result of Navy use of the area.

**EFFECTIVE DATE:** November 25, 2002.

**ADDRESSES:** U.S. Army Corps of Engineers, ATTN: CECW-OR, 441 G Street, NW., Washington, DC 20314-1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761-4618, or Mr. Richard Roach, Corps of Engineers, New England District, Regulatory Division, at (978) 318-8211 or (800) 343-4789.

**SUPPLEMENTARY INFORMATION:** Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps is amending the restricted area regulations in 33 CFR part 334 by adding § 334.81 to establish a restricted area in waters adjacent to Naval Station Newport at Newport Rhode Island.

**Procedural Requirements****A. Review Under Executive Order 12866**

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

**B. Review Under the Regulatory Flexibility Act**

This rule has been reviewed under the Regulatory Flexibility Act (Public Law 96-354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small businesses and small governments). The Corps expects that the economic impact of this restricted area will have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this rule will have no significant economic impact on small entities.

**C. Review Under the National Environmental Policy Act**

The New England District has prepared an Environmental Assessment (EA) for this action. We have concluded, based on the minor nature of the additional restricted area regulations, that this action will not have a significant impact to the quality of the human environment, and preparation of an Environmental Impact Statement (EIS) is not required. The EA may be reviewed at the New England District office listed at the end of **FOR FURTHER INFORMATION CONTACT**, above.

**D. Unfunded Mandates Act**

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of section 202 or 205 of the Unfunded Mandates Act. We have also found under section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

**E. Submission to Congress and the General Accounting Office**

Pursuant to section 801(a)(1)(A) of the Administrative Procedure Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this Rule to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office. This Rule is not a major Rule within the meaning of section 804(2) of the Administrative Procedure Act, as amended.

**List of Subjects in 33 CFR Part 334**

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps amends 33 CFR part 334 as follows:

**PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS**

1. The authority citation for part 334 continues to read as follows:

**Authority:** 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.81 is added to read as follows:

**§ 334.81 Narragansett Bay, East Passage, Coddington Cove, Naval Station Newport, Naval Restricted Area, Newport, Rhode Island.**

(a) *The area.* All of the navigable waters of Coddington Cove east of a line that connects Coddington Point at latitude 41° 31' 24.0" N, longitude 071° 19' 24.0" W; with the outer end of the Coddington Cove Breakwater on the north side of the cove at latitude 41° 31' 55.7" N, longitude 071° 19' 28.2" W.

(b) *The regulation.* All persons, swimmers, vessels and other craft, except those vessels under the supervision or contract to local military or Naval authority, vessels of the United States Coast Guard, and local or state law enforcement vessels, are prohibited from entering the restricted area without specific permission from the Commanding Officer, Naval Station Newport, USN, Newport, Rhode Island or his/her authorized representative.