

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 are to be submitted and are to 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 Division of Dockets Management 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**.

#### VIII. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum from D. Folmer, Division of Petition Review, to F. Ellison, Division of Petition Review, January 30, 2009.

2. Memorandum from A. Khan, Division of Petition Review, to F. Ellison, Division of Petition Review, April 23, 2009.

#### 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 73.2110 is amended by revising paragraph (c)(1) to read as follows:

#### § 73.2110 Bismuth citrate.

\* \* \* \* \*

(c) \* \* \*

(1) The amount of bismuth citrate in the cosmetic shall not be in excess of 2.0 percent (w/v).

\* \* \* \* \*

Dated: March 17, 2010.

**Leslye M. Fraser,**

*Director, Office of Regulations, Policy and Social Sciences, Center for Food Safety and Applied Nutrition.*

[FR Doc. 2010-6731 Filed 3-25-10; 8:45 am]

**BILLING CODE 4160-01-S**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0002]

RIN 1625-AA00

#### Safety Zone; Dive Platform, Pago Pago Harbor, American Samoa

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone around the USNS Sioux or M/V EL LOBO GRANDE II dive platform and the 332-foot Tanker Barge CAPELLA while they are performing operations in and around the CHEHALIS wreck. The safety zone is necessary to protect other vessels and the general public from hazards associated with pre-staging vessels and dive operations. Entry into or remaining in the safety zone during the effective period is prohibited unless authorized by the Captain of the Port Honolulu.

**DATES:** This rule is effective from 6 a.m. on March 25, 2010 through 8 p.m. on April 17, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2010-0002 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0002 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or e-mail Lieutenant Commander Marcella

Granquist, Waterways Management Division, U.S. Coast Guard Sector Honolulu, telephone 808-842-2600, e-mail [Marcella.A.Granquist@uscg.mil](mailto:Marcella.A.Granquist@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On February 5, 2010, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Dive Platform, Pago Pago Harbor, American Samoa in the **Federal Register** (75 FR 5907). We received no comments and no public meeting was requested or held.

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**. Making this safety zone effective March 25, 2010 is essential to protect the public from the hazards associated with pre-staging large vessels for the planned diving operations in and around the CHEHALIS wreck.

##### Background and Purpose

On October 7, 1949 the 4,130-ton gasoline tanker CHEHALIS sank in Pago Pago Inner Harbor, in an estimated 160 feet of water, approximately 350-feet from the fuel dock located near Goat Island Point, Pago Pago, American Samoa. From April 23, 2009 to May 10, 2009, the U.S. Coast Guard performed dive operations on the CHEHALIS wreck to determine the wreck's potential pollution threat to the environment. In December 2009, the U.S. Coast Guard planned dive operations to mitigate the wreck's potential pollution threat with pre-staging vessels beginning March 25, 2010 and conducting diving operations from March 27, 2010 to April 17, 2010.

##### Discussion of Comments and Changes

No comments were received and no public meeting was held. Two changes from the proposed temporary rule to the final temporary rule are necessary to enact the safety zone during the pre-staging of the dive platform and associated 332-foot Tank Barge starting on March 25, 2010 to ensure dive operations finish by April 17, 2010. First, we are changing the effective date of the regulation to March 25, 2010 instead of March 29, 2010. Second, we are slightly enlarging the area of the safety zone to accommodate both the dive platform and the Tank Barge, from a proposed 200-foot radius to an area approximately 600 by 300 feet. We note

that vessels will still be able to transit around the enlarged safety zone.

#### *Regulatory Analyses*

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

#### *Regulatory Planning and Review*

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.

Vessels will be able to transit around the zone. The Sector Honolulu Captain of the Port will allow vessels in the zone on a case-by-case basis.

#### *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 would not have a significant economic impact on a substantial number of small entities since vessels will be allowed to transit around temporary Safety Zone north of the fuel dock in Pago Pago Inner Harbor, American Samoa. 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*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking process.

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 Business 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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### *Collection of Information*

This 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 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 Property*

This rule will not cause 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 might 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 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.

#### *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.

#### *Technical Standards*

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### *Environment*

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and

have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction. This rule involves the creation of a temporary safety zone. An environmental analysis checklist and a 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, 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.T14-199 to read as follows:

#### § 165.T14-199 Safety Zone; Dive Platform Vessel, Pago Pago Harbor, American Samoa.

(a) *Location.* The following area is a temporary safety zone: All waters contained around the USNS Sioux or M/V EL LOBO GRANDE II dive platform and the 332-foot Tanker Barge CAPELLA while they are performing operations in and around the CHEHALIS wreck in Pago Pago Harbor, American Samoa. This safety zone is in the rough shape of a box 600 feet east/west and 300 feet north/south bounded by the points: 14°16'36" S, 170°40'51" W; 14°16'24" S, 170°40'51" W; 14°16'27" S, 170°40'48" W, 14°16'88" S, 170°41'67" W, and 14°16'34" S, 170°40'56" W. This safety zone extends from the surface of the water to the ocean floor. These coordinates are based upon the National Oceanic and Atmospheric Administration Coast Survey, Pacific Ocean, Samoa Islands, chart 83484.

(b) *Effective period.* This rule is effective from 6 a.m. on March 25, 2010 through 8 p.m. on April 17, 2010.

(c) *Regulations.* (1) Except for persons or vessels described in paragraph (c)(3) of this section, in accordance with the general regulations in 33 CFR part 165, Subpart C, entry into or remaining in

the safety zone described in paragraph (a) of this section is prohibited.

(2) Persons desiring to transit the area of the safety zone may contact the Captain of the Port at telephone number 1-684-633-2299, the dive platform vessel on VHF channel 16 (156.800 MHz), or at telephone number 1-808-842-2600, to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

(3) No person or vessel may enter or remain in the zone except for support vessels/aircraft and support personnel, or other vessels authorized by the Captain of the Port or his designated representatives.

(e) *Penalties.* Vessels or persons violating this rule would be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: March 10, 2010.

**B.A. Compagnoni,**

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

[FR Doc. 2010-6693 Filed 3-25-10; 8:45 am]

**BILLING CODE 9110-04-P**

#### DEPARTMENT OF AGRICULTURE

##### Forest Service

#### 36 CFR Part 251

##### Correcting Amendments

**AGENCY:** Forest Service, USDA.

**ACTION:** Correcting amendments.

**SUMMARY:** This document contains corrections to the final rule governing the Forest Service's Special Use Program that was published in the **Federal Register** on December 24, 2009 (74 FR 68379). These corrections add phrases which were inadvertently omitted from the final rule and which are necessary to reflect properly the Forest Service's authority to revoke or suspend special use authorizations under the Federal Land Policy and Management Act.

**DATES:** Effective on March 26, 2010.

**FOR FURTHER INFORMATION CONTACT:** Julett Denton, Lands Special Uses Program Manager, (202) 205-1256.

**SUPPLEMENTARY INFORMATION:** In 36 CFR 251.60(a)(2)(i) and (ii), governing revocation and suspension of special use authorizations, the phrase "§ 251.53(e) and (1)" is replaced with "§ 251.53(e) or an easement issued under § 251.53(l)." In 36 CFR 251.60(g), also governing revocation and suspension of special use

authorizations, "§ 251.53(e) and (l)" is replaced with "§ 251.53(e) or easements issued under § 251.53(l)." These corrections are necessary to continue to reflect that only revocation or suspension of an easement, not a permit, is subject to formal administrative proceedings under the Federal Land Policy and Management Act.

#### List of Subjects in 36 CFR Part 251

Administrative practice and procedure, Electric power, National forests, Public lands—rights-of-way, Reporting and recordkeeping requirements, Water resources.

■ Accordingly, 36 CFR part 251 is corrected to read as follows:

#### PART 251—LAND USES

##### Subpart B—Special Uses

■ 1. The authority citation for part 251 continues to read as follow:

**Authority:** 7 U.S.C. 1011; 16 U.S.C. 518, 551, 678a; Pub. L. 76-867, 54 Stat. 1197.

■ 2. In § 251.60, revise paragraphs (a)(2)(i), (a)(2)(ii), and (g) to read as follows:

\* \* \* \* \*

#### § 251.60 Termination, revocation, and suspension.

(a) \* \* \*

(2) *All other special uses—(i)*

*Revocation or suspension.* An authorized officer may revoke or suspend a special use authorization for all other special uses, except a permit or an easement issued pursuant to § 251.53(e) or an easement issued under § 251.53(l) of this subpart:

(ii) *Administrative review.* Except for revocation or suspension of a permit or an easement issued pursuant to § 251.53(e) or an easement issued under § 251.53(l) of this subpart, suspension or revocation of a special use authorization under this paragraph is subject to administrative appeal in accordance with 36 CFR part 251, subpart C, of this chapter.

\* \* \* \* \*

(g) The authorized officer may suspend or revoke permits or easements issued under § 251.53(e) or easements issued under § 251.53(l) of this subpart under the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings instituted by the Secretary under 7 CFR 1.130 through 1.151.

Dated: March 20, 2010.

**Hank Kashdan,**  
*Associate Chief.*

[FR Doc. 2010-6630 Filed 3-25-10; 8:45 am]

**BILLING CODE 3410-11-P**