

present in a food that triggers the requirement in § 101.72(c)(2)(i)(E) that the claim include a statement that reflects the limit of the benefits derived from dietary calcium intake. Elsewhere in this issue of the **Federal Register**, FDA is proposing alternative amendments to § 101.72(c)(2)(i)(E). Therefore, FDA is withdrawing this proposed amendment of the 1995 proposal.

### III. Related Action

Elsewhere in this issue of the **Federal Register**, FDA is publishing a proposed rule to amend § 101.72 to, among other things: (1) Eliminate the requirement in § 101.72(c)(2)(i)(A) that the claim list sex, race, and age as specific risk factors for the development of osteoporosis; (2) eliminate the requirement in § 101.72(c)(2)(i)(B) that the claim does not state or imply that the risk of osteoporosis is equally applicable to the general U.S. population, and that the claim identify the populations at particular risk for the development of osteoporosis; and (3) eliminate the requirement in § 101.72(c)(2)(i)(E) that the claim include a statement that reflects the limit of the benefits derived from dietary calcium intake, when the level of calcium in the food exceeds a set threshold level.

Comments specific to the proposed amendments in § 101.72(c)(2)(i)(A), (B), and (E) that were submitted in response to the 1995 proposal were considered in the development of the proposed rule that responds to the health claim petition submitted by The Beverage Institute for Health and Wellness.

Authority: Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, the proposed rule published on December 21, 1995 (60 FR 66206), is withdrawn in part for § 101.72(c)(i)(A), (B), and (E).

Dated: December 18, 2006.

**Michael M. Landa,**

*Deputy Director, Regulatory Affairs, Center for Food Safety and Applied Nutrition.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[USCG-2006-25767 formerly CGD09-06-123]

RIN 1625-AB11

#### Safety Zones; U.S. Coast Guard Water Training Areas, Great Lakes

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking; withdrawal.

**SUMMARY:** The Coast Guard is withdrawing its notice of proposed rulemaking (NPRM) concerning the establishment of safety zones throughout the Great Lakes for the purpose of conducting gunnery training. The Coast Guard is authorized to conduct training in realistic conditions and in locations including in, on, and over the internal waters of the United States. In order to maximize safety, the NPRM proposed establishing safety zones in order to maintain Coast Guard control over the training area during training periods. This NPRM is being withdrawn, however, because of comments received from the public regarding the number and location of the proposed safety zones, the frequency of use, notification procedures as well as other concerns raised by the public. There will be no further gunnery training on the Great Lakes to satisfy non-emergency training requirements unless we first propose to the public and then publish a final rule. Because the Coast Guard is mandated to provide for the safety and security of the more than 30 million people in Great Lakes region, the critical infrastructure that make up the Great Lakes system, and the vessels that use it, we are evaluating all available options, including a new NPRM for gunnery training.

**DATES:** The notice of proposed rulemaking is withdrawn on January 5, 2007.

**FOR FURTHER INFORMATION CONTACT:** Commander Gustav Wulfkuhle, Enforcement Branch, Response Division, Ninth Coast Guard District, Cleveland, OH at (216) 902-6091.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory History

On August 1, 2006, the Coast Guard published a notice of proposed rulemaking (NPRM) (71 FR 43402) to establish permanent safety zones throughout the Great Lakes which would restrict vessels from portions of

the Great Lakes during live-fire gun exercises that would be conducted by Coast Guard cutters and small boats. The initial comment period for the NPRM ended on August 31, 2006. In response to public requests, the Coast Guard re-opened the comment period (71 FR 53629, September 12, 2006) from September 12, 2006 to November 13, 2006, in order to provide the public more time to submit comments and recommendations. On September 19 and 27, 2006, the Coast Guard published brief documents announcing the dates and other information on public meetings regarding the NPRM and the gunnery exercises. (71 FR 54792, 56420).

On October 12, 2006, the Coast Guard announced the addition of three more public meetings and again stated that more detailed information related to the meetings would be published at a later date. (71 FR 60094). On October 23, 2006, the Coast Guard published a document containing detailed information about five additional public meetings. (71 FR 62075).

#### Background

Thirty-four safety zones were to be located throughout the Great Lakes in order to accommodate 56 separate Coast Guard units. The proposed safety zones were all located at least three nautical miles from the shoreline.

The Coast Guard proposed to establish permanent zones on the Great Lakes to provide the public with more notice and predictability when conducting infrequent periodic training exercises of brief duration, and to give the public an opportunity to comment on the proposals. The proposed safety zones would have appeared on National Oceanographic and Atmospheric Administration nautical charts, which would have provided a permanent reference for mariners.

The proposed safety zones would have been utilized only upon notice by the cognizant Captain of the Port for the area involved in the exercise. Under the procedure outlined in the NPRM, the cognizant Captain of the Port would have issued notice of the enforcement of a live-fire exercise safety zone by all appropriate means to effect the widest publicity among the affected segments of the public including publication in the **Federal Register** as practicable, in accordance with 33 CFR 165.7(a). Such means of notification would have included, but not been limited to, Broadcast Notice to Mariners or Local Notice to Mariners before, during, and at the conclusion of training exercises.

The coordinates of the proposed safety zones were published on August

1, 2006 at 71 FR 43402. All coordinates used to determine the zones were based upon North American Datum 1983 (NAD 83).

### Withdrawal

The Coast Guard is withdrawing the NPRM published on August 1, 2006 concerning the establishment of safety zones throughout the Great Lakes, but will examine options for future consideration which may include a new NPRM. The Coast Guard will reevaluate the proposal in light of issues raised in the comments the Coast Guard received during the course of this rulemaking. Whatever option the Coast Guard pursues, it intends to address the concerns of the Great Lakes community and to work with the region's stakeholders to develop an acceptable solution that meets the readiness needs of Coast Guard Forces and addresses the public's concerns.

### Discussion of the Comments

The Coast Guard received over 900 comments regarding this NPRM. The Coast Guard received comments from Members of Congress, state and local government representatives, environmentalists, recreational boaters, commercial users, Native American tribes, local businesses, and members of the general public in the Great Lakes region.

Several commenters unconditionally supported the Coast Guard's proposal and recognized the Coast Guard's need to be trained in order to carry out its law enforcement and homeland security missions. Several other commenters supported the Coast Guard's proposal but like many commenters raised concerns about the number, size, and location of the proposed safety zones and whether they would impede recreational and commercial activity, including tourism. Some stated that the water training areas would negatively impact the economy, and some ferry operators commented that the locations of the areas would negatively impact their operations.

Commenters also expressed concerns related to safety and notification issues surrounding the establishment of the water training areas. For example, there were questions on the distance that bullets can travel if they ricochet off the surface of the water and how far they could travel generally. Notification questions included how small craft and vessels without radios would be notified that a live-fire exercise was being conducted in their area. Some people stated that the 2 hour broadcast notice to mariners was insufficient and suggested additional notification

procedures, including the use of local media or announcements on the emergency broadcast system. While some commenters suggested that notification begin two weeks before the scheduled exercise, others requested that training be limited to particular days of the week and seasons of the year. In particular, commenters requested that the training schedule avoid peak boating season to accommodate safety and notification concerns.

Many commenters mentioned environmental concerns, including the potential for lead to find its way into their drinking water. Native American tribes, along with other groups, also expressed concerns regarding subsistence fishing and the impact of lead on the food supply.

Other environmental comments related to the Preliminary Health Risk Assessment.<sup>1</sup> Based upon standard risk evaluation procedures and "realistic worst case" assumptions, the Risk Assessment concluded that the proposed training would result in no elevated risks for the Great Lakes/freshwater, estuarine/Chesapeake Bay, and riverine systems scenarios. Commenters raised concerns, among others that the Risk Assessment did not consider current levels of contamination or contemplate potential cumulative effects beyond 5 years.

Some commenters raised concerns over the Rush-Bagot Agreement of 1817 that limits naval forces on the Great Lakes, and the impact of the training exercises on the relationship between the United States and Canada. Other commenters expressed general concern over the perceived militarization of the Great Lakes.

Commenters suggested a variety of alternatives. Some commenters suggested limiting the number of zones and reducing their size. Other suggestions included using "green" ammunition, simulators and/or lasers, and conducting the training in areas other than the Great Lakes.

In light of these comments and input received during the public meetings, the Coast Guard is withdrawing the current NPRM. The Coast Guard will not conduct further gunnery training on the Great Lakes to satisfy non-emergency training requirements unless the Coast

Guard publishes notice of its proposed action, allows the public an opportunity to comment, and publishes a final rule. A terrorist attack or other emergency may alter these plans. The Coast Guard will ensure that any live-fire training is conducted responsibly, safely, and in accordance with applicable legal requirements.

### Future Proposals/Training Areas

The threat against our Nation remains very real, and vulnerabilities within the Great Lakes system are extensive, diverse, and significant. The Coast Guard is mandated to provide for the safety and security of the more than 30 million people in the Great Lakes Basin, as well as the 11 major ports, 13 nuclear power plants, 348 regulated terminals and facilities, 22 high capacity passenger vessels and ferries, and the hundreds of locks, dams, bridges and other critical infrastructure that make up the Great Lakes system. The Coast Guard is also responsible for the safety and security of several thousand annual Great Lakes commercial vessel transits.

The Coast Guard must be prepared to counter overseas, cross-border, or domestic threats. This includes protecting the citizens of the Great Lakes as well as vessels, ports, waterways and critical infrastructure in the Great Lakes. The Coast Guard must be trained and prepared to meet all threats and all hazards. In order to be proficient, the Coast Guard must train in the maritime environment in which it operates. Operating in the maritime environment is inherently different from land operations, and Coast Guard personnel must be able to shoot safely and effectively from vessels at moving targets in the water.

While the Coast Guard must be ready to confront threats to homeland security originating in the maritime domain, training in the environment must be conducted with due regard for public safety and in a manner that is protective of human health and the environment.

To properly consider the many equities involved, the Coast Guard is withdrawing the NPRM. The Coast Guard is analyzing temporary options to ensure that Coast Guard boat crews obtain training outside the Great Lakes that they require to retain current gunnery qualifications. Maintaining these qualifications is imperative to the Coast Guard mission of providing adequate levels of maritime security in the Great Lakes. The Coast Guard will evaluate all available options including whether to issue a new NPRM prior to conducting non-emergency training exercises on the Great Lakes.

<sup>1</sup>This study, entitled "Preliminary Health Risk Assessment for Proposed U.S. Coast Guard Weapons Training Exercises," is publicly available as part of electronic docket number 25767. You may electronically access the public docket by performing a "Simple Search" for docket number 25767 on the Internet at <http://dms.dot.gov>. The Risk Assessment is the third document in the docket.

**Authority**

This action is taken under the authority of 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; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

Dated: December 28, 2006.

**John E. Crowley, Jr.,**  
*Rear Admiral, U.S. Coast Guard, Commander,  
Ninth Coast Guard District.*

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