

Kidwell, Division of Petition Review, May 21, 2002.

3. Meeting minutes from August 2 and August 28, 2002, Internal meetings, Division of Petition Review.

4. American Academy of Pediatrics Policy Statement "The Use and Misuse of Fruit Juice in Pediatrics (RE0047)," *Pediatrics*, 107(5): 1210-1213, 2001.

5. Memorandum from Park, Division of Petition Review, Toxicology Review Group, to Kidwell, Division of Petition Review, September 17, 2002.

## VII. Objections

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (see **ADDRESSES**) written or electronic objections. 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 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 Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

### List of Subjects in 21 CFR Part 172

Food additives, Incorporation by reference, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 172 is amended as follows:

### PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 continues to read as follows:

**Authority:** 21 U.S.C. 321, 341, 342, 348, 371, 379e.

2. Section 172.380 is added to subpart D to read as follows:

#### § 172.380 Vitamin D<sub>3</sub>.

The food additive may be used safely in foods as a nutrient supplement defined under § 170.3(o)(20) of this chapter in accordance with the following prescribed conditions:

(a) Vitamin D<sub>3</sub>, also known as cholecalciferol, is the chemical 9,10-seco(5Z,7E)-5,7,10(19)-cholestatrien-3-ol. Vitamin D<sub>3</sub> occurs in and is isolated from fish liver oils. It also is manufactured by ultraviolet irradiation of 7-dehydrocholesterol produced from cholesterol and is purified by crystallization.

(b) Vitamin D<sub>3</sub> meets the specifications of the *Food Chemicals Codex*, 4<sup>th</sup> ed. (1996), p. 434, which is incorporated by reference. The Director of the Office of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418 (Internet address <http://www.nap.edu>). Copies may be examined at the Center for Food Safety and Applied Nutrition's Library, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, or the Office of the Federal Register, 800 North Capitol St. NW., suite 700, Washington, DC.

(c) Vitamin D<sub>3</sub> may be added, at levels not to exceed 100 International Units (IU) per serving, to 100 percent fruit juices, as defined under § 170.3(n)(35) of this chapter, excluding fruit juices that are specially formulated or processed for infants, that are fortified with greater than 33 percent of the Recommended Daily Intake (RDI) of calcium per Reference Amount Customarily Consumed (RACC).

(d) Vitamin D<sub>3</sub> may be added, at levels not to exceed 100 IU per serving, to fruit drinks, as defined under § 170.3(n)(35) of this chapter, excluding fruit drinks that are specially formulated or processed for infants, that are fortified with greater than 10 percent of the RDI of calcium per RACC.

Dated: February 21, 2003.

**William K. Hubbard,**

*Associate Commissioner for Policy and Planning.*

[FR Doc. 03-4604 Filed 2-24-03; 11:58 am]

**BILLING CODE 4160-01-S**

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP San Francisco Bay 03-002]

RIN 2115-AA97

### Security Zones; San Francisco Bay, CA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing moving and fixed security zones extending 100 yards around and under all High Interest Vessels (HIVs) that enter, are moored in, anchored in or depart from the San Francisco Bay and Delta ports, California. These security zones are needed for national security reasons to protect the public and ports from potential subversive acts. Entry into these security zones is prohibited, unless specifically authorized by the Captain of the Port San Francisco Bay, or his designated representative.

**DATES:** This regulation is effective from 11:59 p.m. PST on February 10, 2003 to 11:59 p.m. PST on May 31, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [COTP San Francisco Bay 03-002] and are available for inspection or copying at Coast Guard Marine Safety Office San Francisco Bay, Coast Guard Island, Alameda, California, 94501, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Diana Cranston, U.S. Coast Guard Marine Safety Office San Francisco Bay, at (510) 437-3073.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

In addition to this temporary final rule (TFR), we plan to publish a notice of proposed rulemaking (NPRM) for a permanent HIV security zone rule [COTP San Francisco Bay 03-003], in which we will propose to amend 33 CFR 165.1183, which was added by the Final rule [COTP San Francisco Bay 02-019] published in the **Federal Register** (67 FR 79854) on December 31, 2002. 33 CFR § 165.1183, "Security Zones; Cruise Ships and Tank Vessels, San Francisco Bay and Delta ports, California", establishes security zones around cruise ships and tank vessels, but does not address HIVs. The forthcoming NPRM will clarify the classes of vessels sought to be encompassed in the section and

will allow for a public comment period and for a final rule to be put into effect without an interruption in the protection provided by this temporary rule establishing HIV security zones. Section 165.1183 will remain in effect until amended by a future rule. Under 5 U.S.C. 553(b)(B), for reasons discussed below, the Coast Guard finds that good cause exists for not publishing an NPRM before issuing this temporary rule. Also, 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** because the threat of maritime attacks is real as evidenced by the October 2002 attack of a tank vessel off the coast of Yemen and the continuing threat to U.S. assets as described in the President's finding in Executive Order 13273 of August 21, 2002 (67 FR 56215, September 3, 2002) that the security of the U.S. is endangered by the September, 11, 2001 attacks and that such disturbances continue to endanger the international relations of the United States. See also Continuation of the National Emergency with Respect to Certain Terrorist Attacks, (67 FR 58317, September 13, 2002); Continuation of the National Emergency With Respect To Persons Who Commit, Threaten To Commit, Or Support Terrorism, (67 FR 59447, September 20, 2002). Additionally, a Maritime Advisory was issued to: Operators of U.S. Flag and Effective U.S. controlled Vessels and other Maritime Interests, detailing the current threat of attack, MARAD 02-07 (October 10, 2002). As a result, a heightened level of security has been established around all HIVs in San Francisco Bay and Delta ports. Additionally, the measures contemplated by this rule are intended to prevent future terrorist attacks against individuals and facilities within or adjacent to HIVs. Any delay in the effective date of this TFR is impractical and contrary to the public interest.

### Background and Purpose

Since the September 11, 2001 terrorist attacks on the World Trade Center in New York, the Pentagon in Arlington, Virginia and Flight 93, the Federal Bureau of Investigation (FBI) has issued several warnings concerning the potential for additional terrorist attacks within the United States. In addition, the ongoing hostilities in Afghanistan and growing tensions in Iraq have made it prudent to U.S. ports to be on a higher state of alert because the Al-Qaeda organization and other similar organizations have declared an ongoing intention to conduct armed attacks on U.S. interests worldwide.

In its effort to thwart terrorist activity, the Coast Guard has increased safety and security measures on U.S. ports and waterways. As part of the Diplomatic Security and Antiterrorism Act of 1986 (Pub. L. 99-399), Congress amended section 7 of the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1226, to allow the Coast Guard to take actions, including the establishment of security and safety zones, to prevent or respond to acts of terrorism against individuals, vessels, or public or commercial structures. The Coast Guard also has authority to establish security zones pursuant to the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (50 U.S.C. 191 *et seq.*) and implementing regulations promulgated by the President in subparts 6.01 and 6.04 of part 6 of title 33 of the Code of Federal Regulations.

In this particular rulemaking, to address the aforementioned security concerns, and to take steps to prevent the catastrophic impact that a terrorist attack against an HIV would have on the public interest, the Coast Guard is establishing security zones around and under HIVs entering, departing, moored or anchored within the San Francisco Bay and Delta ports. These security zones help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against HIVs. Due to these heightened security concerns, and the catastrophic impact a terrorist attack on an HIV would have on the crew and passengers on board, and surrounding area and communities, security zones are prudent for these types of vessels.

### Discussion of Rule

On December 31, 2002, we published the final rule [COTP San Francisco Bay 02-019] adding § 165.1183, "Security Zones; Cruise Ships and Tank Vessels, San Francisco Bay and Delta ports, California" in the **Federal Register** (67 FR 79854). That section set forth security zones for cruise ships and tank vessels. A forthcoming NPRM (COTP San Francisco Bay 03-003) will propose to amend § 165.1183 to include HIVs as protected vessels in that section, along with cruise ships and tank vessels. The Coast Guard will utilize the extended effective period of the NPRM to engage in notice and comment rulemaking to develop permanent regulations tailored to the present and foreseeable security environment with the Captain of the Port (COTP) San Francisco Bay.

In this temporary rule, the Coast Guard is establishing moving and fixed security zones around all HIVs that are anchored, moored or underway within the San Francisco Bay and Delta ports. These security zones are activated when

any HIV passes shoreward of the line drawn between San Francisco Main Ship Channel buoys 7 and 8 (LLNR 4190 & 4195, positions 37°46.9'N, 122°35.4'W & 37°46.5'N, 122°35.2'W, respectively) and remains in effect while the vessel is underway, anchored or moored within the San Francisco Bay and Delta ports. When activated, this security zone will encompass all waters, extending from the surface to the sea floor, within 100 yards ahead, astern and extending 100 yards along either side of any HIV in the San Francisco Bay and Delta ports. This security zone is automatically deactivated when the HIV passes seaward of the line drawn between San Francisco Main Ship Channel buoys 7 and 8 (LLNR 4190 & 4195, positions 37°46.9'N, 122°35.4'W & 37°46.5'N, 122°35.2'W, respectively) on its departure from port. Vessels and people may be allowed to enter an established security zone on a case-by-case basis with authorization from the Captain of the Port.

Vessels or persons violating this section will be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192. Pursuant to 33 U.S.C. 1232, any violation of the security zone described herein, is punishable by civil penalties (not to exceed \$27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of \$250,000), and in rem liability against the offending vessel. Any person who violates this section, using a dangerous weapon, or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also faces imprisonment up to 12 years. Vessels or persons violating this section are also subject to the penalties set forth in 50 U.S.C. 192: seizure and forfeiture of the vessel to the United States, a maximum criminal fine of \$10,000, and imprisonment up to 10 years, and a civil penalty of not more than \$25,000 for each day of a continuing violation.

The Captain of the Port will enforce these zones and may enlist the aid and cooperation of any Federal, State, county, municipal, and private agency to assist in the enforcement of the regulation. This regulation is proposed under the authority of 33 U.S.C. 1226 in addition to the authority contained in 50 U.S.C. 191 and 33 U.S.C. 1231.

### Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Although this regulation restricts access to the zones, the effect of this regulation will not be significant because: (i) The zones will encompass only a small portion of the waterway; (ii) vessels will be able to pass safely around the zones; (iii) vessels may be allowed to enter these zones on a case-by-case basis with permission of the Captain of the Port, or his designated representative; and (iv) vessels are able to safely transit around the zones while a vessel is moored or at anchor in the San Francisco Bay and Delta ports.

The sizes of the zones are the minimum necessary to provide adequate protection for HIVs, their crews and passengers, other vessels operating in the vicinity of HIVs, their crews and passengers, adjoining areas, and the public. The entities most likely to be affected are commercial vessels transiting the main ship channel en route the San Francisco Bay and Delta ports and pleasure craft engaged in recreational activities and sightseeing. The security zones will prohibit any commercial vessels from meeting or overtaking an HIV in the main ship channels, effectively prohibiting use of the channels. However, the moving security zones will only be effective during HIV transits, which will last for approximately 30 minutes.

#### 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. The security zones will not have a significant economic impact on a substantial number of small entities for several reasons: Small vessel traffic can pass safely around the area and vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the security zones to engage in these activities. When a HIV is at anchor, vessel traffic

will have ample room to maneuver around the security zones. Small entities and the maritime public will be advised of these security zones via public notice to mariners.

#### 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 the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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).

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

#### Taking of Private Property

This rule will not effect 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because we are establishing a security zone. A "Categorical Exclusion Determination" is available in the docket for inspection

or copying where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and record keeping 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. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add § 165.T11–077 to read as follows:

#### § 165.T11–077 Security Zones; High Interest Vessels, San Francisco Bay and Delta ports, California.

(a) *Definition*. “High Interest Vessel” or “HIV” as used in this section, means any vessel deemed by the Captain of the Port or higher authority as a vessel requiring protection based upon risk assessment analysis of the vessel and is therefore escorted by a Coast Guard or other law enforcement vessel with an embarked Coast Guard commissioned, warrant, or petty officer.

(b) *Location*. The following areas are security zones:

(1) All waters, extending from the surface to the sea floor, within 100 yards ahead, astern and extending 100 yards along either side of any HIV that is anchored at a designated anchorage within the San Francisco Bay and Delta port areas shoreward of the line drawn between San Francisco Main Ship Channel buoys 7 and 8 (LLNR 4190 & 4195, positions 37°46.9' N, 122°35.4' W and 37°46.5' N, 122°35.2' W, respectively);

(2) The shore area and all waters, extending from the surface to the sea floor, within 100 yards ahead, astern and extending 100 yards along either side of any HIV that is moored, or in the process of mooring, at any berth within the San Francisco Bay and Delta port areas shoreward of the line drawn between San Francisco Main Ship Channel buoys 7 and 8 (LLNR 4190 & 4195, positions 37°46.9' N, 122°35.4' W and 37°46.5' N, 122°35.2' W, respectively); and

(3) All waters, extending from the surface to the sea floor, within 100 yards ahead, astern and extending 100 yards along either side of any HIV that is underway shoreward of the line drawn between San Francisco Main Ship

Channel buoys 7 and 8 (LLNR 4190 & 4195, positions 37°46.9' N, 122°35.4' W and 37°46.5' N, 122°35.2' W, respectively).

(c) *Regulations*. (1) In accordance with the general regulations in § 165.33 of this part, entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, San Francisco Bay, or his designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number 510–437–3073 or on VHF–FM channel 16 (156.8 MHz) 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 or her designated representative.

(3) When an HIV approaches within 100 yards of a vessel that is moored, or anchored, the stationary vessel must stay moored or anchored while it remains within the HIV's security zone unless it is either ordered by, or given permission from, the COTP San Francisco Bay to do otherwise.

(d) *Authority*. In addition to 33 U.S.C. 1231 and 50 U.S.C. 191, the authority for this section includes 33 U.S.C. 1226.

(e) *Enforcement*. The U.S. Coast Guard may be assisted in the patrol and enforcement of the security zone by local law enforcement as necessary.

(f) *Effective Dates*. This section becomes effective at 11:59 p.m. PST on February 10, 2003, and will terminate at 11:59 p.m. PST on May 31, 2003.

Dated: February 10, 2003.

**Gerald M. Swanson,**

*Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.*

[FR Doc. 03–4634 Filed 2–26–03; 8:45 am]

**BILLING CODE 4910–15–P**

#### POSTAL SERVICE

#### 39 CFR Part 111

#### Label Standards for Combined or Copalletized Periodicals Mailings

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This final rule clarifies when it is permissible to use the designation “NEWS” rather than the designation “PER” on Line 2 (the content line) of labels that identify sacks, trays, and pallets containing copies of Periodicals publications prepared in combined mailings or in copalletized mailings.

Combined mailings and copalletized mailings often consist of copies that would be eligible for the designation

“NEWS” on the container label and other copies that would be eligible only for the designation “PER” on the container label. This final rule allows mailers to prepare and consolidate more than one Periodicals publication or edition of a publication into a single production mailstream.

This final rule also clarifies mailing standards for identifying the two different methods under which a Periodicals combined mailing may be prepared and to note the requirements for submitting postage statements under each method.

**EFFECTIVE DATE:** March 6, 2003.

**FOR FURTHER INFORMATION CONTACT:** Neil Berger at (703) 292–3645, Jane Stefaniak at (703) 292–3548, or Marc McCrery at (202) 268–2704.

**SUPPLEMENTARY INFORMATION:** In this rulemaking, the Postal Service announces the adoption of standards initially proposed on October 30, 2002 in the *Federal Register* (67 FR 66094–66096) for determining when to use “NEWS”—a designation for “newspaper”—and “PER”—a designation for the class name “Periodicals”—as part of the information on Line 2 (the content line) of sack, tray, and pallet labels used for combined mailings and copalletized mailings.

This final rule allows mailers to prepare and consolidate more than one Periodicals publication or edition of a publication into a single production mailstream by providing the following standards for the application of the “NEWS” and “PER” designations in such cases:

(1) If at least 51% of the total number of copies (not number of addressed pieces) in the combined mailing or in the copalletized mailing can qualify for “NEWS” treatment, then all containers or pallets in such a mailing are labeled “NEWS” on Line 2, unless the mailer chooses to use “PER.”

(2) If less than 51% of the total number of copies in the combined mailing or in the copalletized mailing can qualify for “NEWS” treatment, then all containers or pallets in such a mailing are labeled “PER” on Line 2.

#### “NEWS” and “PER” Designations

*Domestic Mail Manual* (DMM) D210 states that the Postal Service does not guarantee the delivery of Periodicals publications within a specified time. Where practicable, Periodicals publications, whether designated “NEWS” or “PER,” receive expeditious handling in distribution, dispatch, transportation, and delivery.

Publications labeled “NEWS” receive newspaper treatment if published