

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****15 CFR Part 922**

[Docket No. 960321088-6088-01]

RIN 0648-XX58

Zones and Access Routes Within the Monterey Bay National Marine Sanctuary Where the Operation of Motorized Personal Water Craft Is Allowed

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Correcting amendments; Final rule.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is correcting discrepancies in the coordinates of several points that mark the zones and access routes for operation of motorized personal water craft in the Monterey Bay National Marine Sanctuary. NOAA is also making several descriptive corrections to improve the descriptions of the zones and access routes. Additionally, NOAA is slightly moving one point of the boundary of the Moss Landing zone to make it coincide with an existing Coast Guard bell buoy and to meet navigational requirements.

EFFECTIVE DATE: April 4, 1996.

FOR FURTHER INFORMATION CONTACT: Scott Kathey at (408) 647-4251 or Elizabeth Moore at (301) 713-3141.

SUPPLEMENTARY INFORMATION:**I. Background**

In recognition of the national significance of the unique marine environment centered around Monterey Bay, California, the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) was designated on September 18, 1992. SRD issued final regulations, effective January 1, 1993, to implement the Sanctuary designation (now at 15 CFR Part 922, Subpart M). The MBNMS regulations at 15 CFR 922.132 prohibit a relatively narrow range of activities and make it unlawful for any person to conduct them or cause them to be conducted. One of the regulations restricts the operation of motorized personal water craft within the Sanctuary to four zones and access routes located off the harbors of the Sanctuary. The zones and access routes

are described in detail in 15 CFR Part 922, Subpart M, Appendix D.

NOAA is preparing to place buoys to mark the zones and make them easier for operators to identify. In preparing for placement operations, NOAA became aware of minor discrepancies in the coordinates for two points in the Pillar Point zone and in the coordinates for one point in the Santa Cruz zone. This document corrects those discrepancies. Corrections are made because the listed coordinates for identified Coast Guard navigational aids (identified in the zone descriptions as key boundary points) are in error and do not reflect the true position of those aids. Correcting the coordinates does not diminish and in fact slightly increases the areas of the affected zones compared to the incorrect coordinates. Also, in one instance, at Pillar Point, a Coast Guard navigational aid in the form of a breakwater entrance light and horn was misidentified as a breakwater buoy; this document corrects that.

This document also makes several descriptive corrections to improve the descriptions of the zones and access routes. For example, the approximate-size descriptions of the areas of the Santa Cruz and Moss Landing zones are corrected from three and five square nautical miles, respectively, to five and six. As another example, because the Sanctuary boundary does not include Pillar Point, Santa Cruz, Moss Landing or Monterey harbors shoreward from their International Collision at Sea regulation (Colreg.) demarcation lines (with the exception of Moss Landing Harbor, where all of Elkhorn Slough east of the Highway One Bridge is included within the Sanctuary boundary), NOAA is clarifying that any launch ramp in those harbors may be used.

This document also moves one point of the boundary of the Moss Landing zone approximately 300 yards northeast to make it coincide with an existing Coast Guard bell buoy. The coordinates of Subpart M, Appendix D (3)(e) are changed to those of the bell buoy that marks the center of the ship channel leading into the harbor. NOAA has consulted with the Coast Guard. This change is made because placement of a buoy at the originally prescribed coordinates would unreasonably obstruct the designed vessel traffic flow due to the very close proximity to the existing bell buoy. Further, (1) the existing buoy is already familiar to water craft operators and appears on NOAA nautical charts; (2) the existing buoy is substantially larger and more visible under inclement weather conditions than other marker buoys; (3) use of an existing buoy reduces

deployment and maintenance costs; and (4) use of the existing buoy does not diminish and in fact slightly increases the area of the affected zone.

II. Miscellaneous Rulemaking Requirements*Executive Order 12612: Federalism Assessment*

NOAA has concluded that this regulatory action does not have federalism implications sufficient to warrant the preparation of a Federalism Assessment under Executive Order 12612.

Executive Order 12866: Regulatory Impact

This final rule has been determined to not be significant for the purposes of Executive Order 12866.

Paperwork Reduction Act

The correcting amendments and final rule do not impose any information collection requirement subject to review and approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 *et seq.*

National Environmental Policy Act

NOAA has concluded that this regulatory action does not constitute a major federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

Administrative Procedure Act

(1) **Correcting Amendments**
Because the correcting amendments are corrections, no useful purpose would be served by providing notice and opportunity for comment or a 30-day delay in effective date. Accordingly, the Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management under 5 U.S.C. 553(b)(B) and (d) for good cause finds that providing notice and opportunity for comment and a 30-day delay in effective date are unnecessary.

(2) **Final Rule (Moving One Point of Boundary of Moss Landing Zone)**

No useful purpose would be served by providing notice and opportunity for comment on the minor movement of one point of the boundary of the Moss Landing zone for the following reason. NOAA has consulted with the Coast Guard, which has indicated it would not approve placement of a buoy at the originally prescribed coordinates because of the very close proximity to the existing bell buoy and the resulting unreasonable obstruction of the designed vessel traffic flow. NOAA concurs. Accordingly, NOAA, by

moving the point to the bell buoy, is moving the point the minimum distance it can be moved to achieve the goal of having the point marked by a buoy. The Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management under 5 U.S.C. 553(b)(B) for good cause accordingly finds that providing notice and opportunity for comment is unnecessary. Because this rule slightly increases the area of the affected zone, it relieves a restriction and under 5 U.S.C. 553(d)(1) is not subject to a 30-day delay in effective date.

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Marine resources, Natural resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: March 29, 1996.

David L. Evans,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR Part 922 is amended as follows:

PART 922—[AMENDED]

1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart M—Monterey Bay National Marine Sanctuary

2. Appendix D to Subpart M of Part 922 is amended by revising paragraphs (1), (2), (3) and (4) to read as follows:

Appendix D to Subpart M of Part 922—Zones and Access Routes Within the Sanctuary Where the Operation of Motorized Personal Watercraft is Allowed

* * * * *

(1) The approximately one [1.0] NM² area off Pillar Point Harbor from harbor launch ramps, through harbor entrance to the northern boundary of Zone One bounded by (a) 37°29.6' N (flashing 5-second breakwater entrance light and horn located at the seaward end of the outer west breakwater), 122°29.1' W; (b) 37°28.9' N (bell buoy), 122°29.0' W; (c) 37°28.8' N, 122°28' W; and (d) 37°29.6' N, 122°28' W;

(2) The approximately five [5.0] NM² area off of Santa Cruz Small Craft Harbor from harbor launch ramps, through harbor entrance, and then along

a 100 yard wide access route southwest along a true bearing of approximately 196° (180° magnetic) to the whistle buoy at 36°56.3' N, 122°00.6' W. Zone Two is bounded by (a) 36°55' N, 122°02' W; (b) 36°55' N, 121°58' W; (c) 36°56.5' N, 121°58' W; and (d) 36°56.5' N, 122°02' W;

(3) The approximately six [6.0] NM² area off of Moss Landing Harbor from harbor launch ramps, through harbor entrance, and then along a 100 yard wide access route due west to the eastern boundary of Zone Three bounded by (a) 36°50' N, 121°49.3' W; (b) 36°50' N, 121°50.8' W; (c) 36°46.7' N, 121°50.8' W; (d) 36°46.7' N, 121°49' W; (e) 36°47.9' N (bell buoy), 121°48.1' W; and (f) 36°48.9' N, 121°48.2' W; and

(4) The approximately five [5.0] NM² area off of Monterey Harbor from harbor launch ramps to the seaward end of the U.S. Coast Guard Pier, and then along a 100 yard wide access route due north to the southern boundary of Zone Four bounded by (a) 36°38.7' N, 121°55.4' W; (b) 36°36.9' N, 121°52.5' W; (c) 36°38.3' N, 121°51.3' W; and (d) 36°40' N, 121°54.4' W.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 88F-0339]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of poly(oxy-1,2-ethanedioxydicarbonyl-2,6-naphthalenediylcarbonyl) as the basic resin in articles intended for use in contact with food. This action responds to a petition filed by the Eastman Chemical Co.

DATES: Effective April 4, 1996; written objections and requests for a hearing by May 6, 1996. The Director of the Office of the Federal Register approves the incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 of a certain publication listed in new § 177.1637(b)(2), effective April 4, 1996.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA-

305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard H. White, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3094.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of October 26, 1988 (53 FR 43272), FDA announced that a food additive petition (FAP 8B4110) had been filed by the Eastman Kodak Co., Eastman Chemical Division, P.O. Box 511, Kingsport, TN 37662. The petition proposed to amend the food additive regulations in part 177 *Indirect Food Additives: Polymers* (21 CFR part 177) to provide for the safe use of poly(ethylene 2,6-naphthalene dicarboxylate) as a basic resin in articles or as a component of articles intended for single use or repeated use in contact with food.

Subsequent to the filing of the petition, the Eastman Kodak Co., Eastman Chemical Division, was reorganized to form Eastman Chemical Co., an independent corporation. As a result of this reorganization, FDA was informed that the Eastman Chemical Co. (same address) was the petitioner of record for this food additive petition.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed use of the resin is safe and that the food additive regulations should be amended by adding new § 177.1637 as set forth below. The agency has also determined, with the petitioner's concurrence, that poly(oxy-1,2-ethanedioxydicarbonyl-2,6-naphthalenediylcarbonyl) is a more accurate and descriptive name for the resin that is the subject of the food additive petition. Therefore, FDA is using this name to identify the resin in the final rule.

In its review of this petition, the agency has also carefully considered the potential environmental effects of this action. In particular, the agency has considered the potential for effects on the management of municipal solid waste because this resin may replace other materials that are currently recycled. The petitioner provided the results of studies demonstrating that the resin can be recycled for use in food containers and submitted a recycling implementation plan for FDA's review. The agency is convinced that it is feasible for packaging made with this resin to be recovered from post-consumer waste and recycled, based upon the following factors: (1) The petitioner's recycling plan and stated