

**PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940**

■ 1. The authority citation for Part 270 is amended by adding the following citation to read as follows:

**Authority:** 15 U.S.C. 80a-1 *et seq.*, 80a-34(d), 80a-37, and 80a-39, unless otherwise noted.

\* \* \* \* \*

Section 270.22e-3T is also issued under 15 U.S.C. 80a-6(c) and 80a-37(a).

\* \* \* \* \*

■ 2. Section 270.22e-3T is added to read as follows:

**§ 270.22e-3T Temporary exemption for liquidation of certain money market funds.**

(a) A registered investment company, or a series thereof ("fund"), is exempt from the requirements of section 22(e) of the Act (15 U.S.C. 80a-22(e)) if:

(1) The fund has a currently effective agreement ("Agreement") with the U.S. Department of the Treasury ("Treasury") to participate in the Temporary Guaranty Program for Money Market Funds ("Program");

(2) The fund has delivered to Treasury a notice indicating that it has experienced a guarantee event, and will promptly commence liquidation of the fund under the terms of the Agreement; and

(3) The fund has not cured the guarantee event as provided under the terms of the Agreement.

(b) For the protection of security holders of a fund, the Commission may issue an order to rescind or modify the exemption provided by this section as to that fund, after appropriate notice and opportunity for hearing in accordance with section 40 of the Act (15 U.S.C. 80a-39).

(c) This section will expire on October 18, 2009, unless the Commission publishes a notice in the **Federal Register** announcing an earlier termination date in connection with termination of the Guaranty Program.

Dated: November 20, 2008.

By the Commission.

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-28050 Filed 11-25-08; 8:45 am]

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**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 530**

[Docket No. FDA-2008-N-0326]

**New Animal Drugs; Cephalosporin Drugs; Extralabel Animal Drug Use; Revocation of Order of Prohibition; Withdrawal**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; withdrawal.

**SUMMARY:** The Food and Drug Administration (FDA) is revoking the order prohibiting the extralabel use of cephalosporin antimicrobial drugs in food-producing animals. FDA received many substantive comments on the order of prohibition. The agency is taking this action so that it may fully consider these comments.

**DATES:** Effective November 26, 2008, the final rule published July 3, 2008 (73 FR 38110), for which the effective date was delayed until November 30, 2008, in a document published August 18, 2008 (73 FR 48127), is withdrawn.

**FOR FURTHER INFORMATION CONTACT:** Neal Bataller, Center for Veterinary Medicine (HFV-230), Food and Drug Administration, 7519 Standish Pl., Rockville, MD, 20855, 240-276-9200, e-mail: [neal.bataller@fda.hhs.gov](mailto:neal.bataller@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of July 3, 2008 (73 FR 38110), FDA published an order prohibiting the extralabel use of cephalosporin antimicrobial drugs in food-producing animals, with a 60-day comment period and a 90-day effective date for the final order. The order, that was to take effect on November 30, 2008, would have resulted in a change to § 530.41 (21 CFR 530.41) to list cephalosporins as prohibited from extralabel use in food-producing animals as provided for in 21 CFR 530.25(f).

In response to publication of this order, the agency received requests for a 60-day extension of the comment period. The requests conveyed concern that the original 60-day comment period would not allow the requesters sufficient time to examine the available evidence, consider the impact of the order, and provide constructive comment.

FDA considered the requests and, in the **Federal Register** of August 18, 2008 (73 FR 48127), extended the comment period for the order for 60 days, until November 1, 2008. Accordingly, FDA

also delayed the effective date of the final rule 60 days, until November 30, 2008.

The agency received many substantive comments on the order of prohibition. Therefore, to allow more time to fully consider the comments, FDA has decided to revoke the order so that it does not take effect November 30, 2008. This means that neither the order nor the change to § 530.41 that would have listed cephalosporins as prohibited from extralabel use will take effect on November 30, 2008. If, after considering the comments and other relevant information, FDA decides to issue another order of prohibition addressing this matter, FDA will follow the procedures in 21 CFR 530.25 that provide for a public comment period prior to implementing the order.

We note that, insofar as withdrawal of the amendment to § 530.41 might be considered a rule subject to 5 U.S.C. 553(b), the agency for good cause finds that prior notice and comment procedures are unnecessary because there is no need to amend § 530.41 since the order is being revoked.

Dated: November 21, 2008.

**William T. Flynn,**

*Acting Director, Center for Veterinary Medicine.*

[FR Doc. E8-28093 Filed 11-25-08; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2008-0984]

RIN 1625-AA00

**Safety Zone, Bayfront Park New Year's Eve Celebration, Biscayne Bay, FL**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a Safety Zone east of the Intracoastal Waterway at the Port of Miami, Florida for the Bayfront Park New Year's Eve Ceremony. This temporary zone is intended to restrict vessels from entering waters within the zone unless specifically authorized by the Captain of the Port Miami, Florida, or a designated representative. This rule is necessary to provide for the safety of life on the navigable waters of the United States, and protect participants, spectators, and mariner traffic from potential hazards associated with

launching fireworks over the navigable waters of the United States.

**DATES:** This rule is effective from 11:59 p.m. on December 31, 2008 to 1 a.m. on January 1, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2008-0984 and are available online at [www.regulations.gov](http://www.regulations.gov). They are also available for inspection or copying at two locations: 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, and at Sector Miami, 100 MacArthur Causeway, Miami Beach, FL 33139 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call Lieutenant Paul Steiner, Coast Guard Sector Miami, Florida at (305) 535-8724. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is necessary to ensure the safety of commercial and recreational vessels in the vicinity of the fireworks display on the dates and times this rule will be in effect and delay would be contrary to the public interest. A Coast Guard Patrol Commander will be available and the Coast Guard will also issue a Broadcast Notice to Mariners. This temporary rule is necessary to ensure the safety of participants, spectators, and the general public on the navigable waters of the United States.

For the same reasons above, 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**.

**Background and Purpose**

Firepower Displays Unlimited will be sponsoring the Bayfront Park New Year's Eve Celebration. The event will be held from 11:59 p.m. on December 31, 2008 to 1 a.m. on January 1, 2009. The public is invited to attend. The high concentration of event participants, spectators, and the general boating public presents an extra hazard to the safety of life on the navigable waters of the United States. A regulated area east of the Intracoastal Waterways of the Port of Miami, Florida is necessary to protect participants as well as spectators from hazards associated with the event.

**Discussion of Rule**

This rule establishes a temporary safety zone surrounding the fireworks barge east of the Intracoastal Waterways of Miami, Florida. A 375 yard radius safety zone encompassing the waters surrounding the fireworks barge east of the Intracoastal Waterway is necessary to protect participants as well as spectators from hazards associated with the fireworks display. The fireworks barge will be located in position 25°46'23" N, 080°10'57" W. All vessels and persons are prohibited from anchoring, mooring, or transiting within this zone unless authorized by the Captain of the Port Miami, Florida or a designated representative. The temporary safety zone will protect the participants and the public from the dangers associated with the event. This regulation will be effective from 11:59 p.m. on Wednesday, December 31, 2008 to 1 a.m. on Thursday, January 01, 2009.

**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.

This expectation is based on the fact that this regulation will only be in effect for a short period of time and the impact on routine navigation is expected to be minimal. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

**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. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit this zone between 11:59 p.m. on December 31, 2008 and 1 a.m. on January 1, 2009. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will only be in effect for a short period of time and the impact on routine navigation is expected to be minimal.

**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 can 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 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. 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 5100.1 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 concluded under the Instruction that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g.), of the Instruction, from further environmental documentation. An environmental analysis checklist and a categorical exclusion determination will be 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, and 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, 3306, 3703; 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. A new temporary § 165.T08–0984 is added to read as follows:

#### § 165.T08–0984 Safety Zone, Bayfront Park New Year’s Eve Celebration, Biscayne Bay, Florida.

(a) *Regulated areas.* The Coast Guard is establishing a temporary safety zone on the waters of the Intracoastal Waterway, in the Port of Miami, Florida, that encompasses the area within a 375 yard radius of the fireworks barge located in approximate position: 25°46’23” N, 080°10’57” W. The safety zone is within the boundaries of the Intracoastal Waterway in the Port of Miami, Florida. All coordinates referenced use datum: NAD 83.

(b) *Definitions.* The following definitions apply to this section:

*Designated representative* means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port Miami, Florida (COTP) in the enforcement of regulated navigation areas, safety zones, and security zones.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, no person or vessel may anchor, moor or transit a safety zone without permission of the Captain of the Port Miami, Florida or a designated representative. To request permission to enter into a safety zone, the Captain of the Port’s designated representative may be contacted on VHF channel 16.

(2) At the completion of scheduled event, and departure of participants from the regulated area, the Coast Guard Patrol Commander may permit traffic to resume normal operations.

(3) The public will be informed of this regulation by a Coast Guard Patrol Commander on scene and through a Broadcast Notice to Mariners.

(d) *Enforcement Period.* This temporary safety zone will be effective between the hours of 11:59 p.m., Wednesday, December 31, 2008 and 1 a.m., Thursday, January 1, 2009.

Dated: October 30, 2008.

**J.O. Fitton,**

*Captain, U.S. Coast Guard, Captain of the Port Miami, FL.*

[FR Doc. E8-28150 Filed 11-25-08; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 9

RIN 2900-AN00

#### Servicemembers' Group Life Insurance Traumatic Injury Protection Program

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Interim final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is issuing this interim final rule to amend the Servicemembers' Group Life Insurance traumatic injury protection program (TSGLI) regulations in order to add losses that would be covered under the program and to define terms relevant to these new losses. This rulemaking also clarifies language in and reorganizes existing provisions.

**DATES:** This interim final rule is effective November 26, 2008. Comments must be received on or before December 26, 2008.

**Applicability Date:** VA will apply this rule to injuries incurred in Operation Enduring Freedom or Operation Iraqi Freedom on or after October 7, 2001, through and including November 30, 2005, and to all qualifying injuries incurred on or after December 1, 2005.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AN00." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments are available online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Jeanne King, Attorney-Advisor, Department of Veterans Affairs Regional Office and Insurance Center (310/290B),

P.O. Box 8079, Philadelphia, Pennsylvania 19101, (215) 842-2000, ext. 4839. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** TSGLI was established by Congress in May 2005 to provide monetary assistance to severely injured service members who suffer a loss, such as the loss of a hand, as a direct result of a serious traumatic injury in order to help the member and the member's family through an often long and arduous treatment and rehabilitation period. VA codified regulations to implement TSGLI at 38 CFR 9.1(k)-(q) and 9.20. See 70 FR 75940 (Dec. 22, 2005); 72 FR 10362 (Mar. 8, 2007).

VA conducted an extensive review of the TSGLI program at the end of the first year of the program's operation ("Year-One Review") to ensure that the program was operating effectively and that it was meeting the intent of Congress. The report was published on the VA Web site on July 17, 2008.

<http://www.insurance.va.gov/miscellaneous/index.htm>. Many of the amendments made by this interim final rule, particularly the losses that we propose to add to the Schedule of Losses in § 9.20, are derived from the recommendations and findings of the TSGLI Year-One Review.

Congress has expressed its intent to provide TSGLI benefits retroactively. Section 1032(c)(1) of the "Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005," Public Law 109-13, which established the TSGLI program effective December 1, 2005, also provided for the payment of TSGLI benefits to service members who experienced a traumatic injury between October 7, 2001, when Operation Enduring Freedom began, and December 1, 2005, the effective date of section 1032 of Public Law 109-13, if the loss was a direct result of injuries incurred in Operation Enduring Freedom or Operation Iraqi Freedom. VA as well has made its regulations implementing the TSGLI program retroactive. In 2007, VA applied changes to the TSGLI program made by the Veterans' Housing Opportunity and Benefits Improvement Act of 2006, Public Law 109-233, section 501(a)(3), 120 Stat. 397, 413, to claims filed or injuries suffered prior to the date of the change in the law because it was consistent with the objectives of the TSGLI provisions authorizing payments based on injuries preceding the program's creation. 72 FR 10362, 10363 (2007). We believe that the same holds true with regard to the changes made by this rulemaking.

Further, because TSGLI is intended to provide a source of income for expenses during periods of treatment and convalescence following a loss due to traumatic injury, we believe the application of these regulations is more directly connected to those persistent circumstances than to the past date on which an injury or loss was incurred or a claim was filed. *Id.* We also note that these regulatory amendments would not have affected conduct prior to the date of publication, nor would the regulations upset any settled expectations in any meaningful way. See *Landgraf v. USI Film Prods.*, 511 U.S. 244, 280 (1994); *Princess Cruises, Inc. v. United States*, 397 F.3d 1358, 1362-63 (Fed. Cir. 2005). The service member's traumatic injury, the scheduled loss due to the injury, and the resulting economic burdens on the service member were not within any party's control and obviously actions were not taken in reliance on prior regulations. Although application of the regulations will increase the Government's economic burden, we believe the additional burden is countered in this instance by the other considerations discussed above.

We are amending 38 CFR 9.1(b) to provide the current address of the Office of Servicemembers' Group Life Insurance (OSGLI), which is 80 Livingston Avenue, Roseland, New Jersey 07068.

We are moving the definitions from 38 CFR 9.1(k)-(q), which pertain only to TSGLI, to 38 CFR 9.20(e)(6)(vi)-(xii) for purposes of administrative convenience and to make it easier for the public to locate the rules. We are expanding the definition of "medical professional" at § 9.20(e)(6)(xii) to include a "licensed practitioner of the healing arts acting within the scope of his or her practice." We have broadened the definition in order to encompass a wider range of licensed medical professionals who are qualified to certify eligibility for TSGLI.

We are revising 38 CFR 9.20(b)(3) to state that the term "traumatic event" does not include a medical procedure or a surgical procedure in and of itself. Current § 9.20(b)(3) only refers to a surgical procedure. The revision makes the regulation consistent with VA's current practice of not providing TSGLI payments for an injury that directly results from either a medical or surgical procedure. The publication of this revision to the current rule will not result in any deviation from already established guidelines or processes. Further, the revised definition is consistent with current 38 CFR 9.20(e)(3)(i)(C), which excludes payment for a scheduled loss due to a