

## PART 46—MISCELLANEOUS REGULATIONS RELATING TO TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES

7. The authority citation for Part 46 continues to read as follows:

**Authority:** 18 U.S.C. 2341–2346, 26 U.S.C. 5704, 5708, 5751, 5754, 5761–5763, 6001, 6601, 6621, 6622, 7212, 7342, 7602, 7606, 7805; 44 U.S.C. 3504(h), 49 U.S.C. 782, unless otherwise noted.

8. [The proposed amendatory instructions and the proposed amended regulatory text for part 46 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

## PART 71—RULES OF PRACTICE IN PERMIT PROCEEDINGS

9. The authority citation for part 71 is revised to read as follows:

**Authority:** 26 U.S.C. 5271, 5181, 5712, 5713, 7805, 27 U.S.C. 204.

10. [The proposed amendatory instructions and the proposed amended regulatory text for part 71 are the same as the amendatory instructions and the amended regulatory text set forth in the temporary rule on this subject published in the Rules and Regulations section of this issue of the **Federal Register**.]

Signed: March 10, 2009.

**John J. Manfreda,**  
Administrator.

Approved: March 12, 2009.

**Timothy E. Skud,**  
Deputy Assistant Secretary. (*Tax, Trade, and Tariff Policy*).

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG–2009–0159]

RIN 1625–AA00

#### Safety Zone; Barge BDL235, Pago Pago Harbor, American Samoa

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes a temporary 100-foot (30.5 meter) radius safety zone around the 142 foot Barge BDL235 while it is performing operations in and around the

CHEHALIS wreck. The wreck's approximate position is 14°16.52' S, 170°40.56' W and centered about 350 feet north of the fuel dock in Pago Pago Harbor, American Samoa. The safety zone is necessary to protect other vessels and the general public from hazards associated with dive operations.

**DATES:** Comments and related material must either be submitted to our online docket via <http://www.regulations.gov> on or before April 15, 2009 or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG–2009–0159 using any one of the following methods:

(1) Federal eRulemaking Portal:

<http://www.regulations.gov>.

(2) Fax: 202–493–2251.

(3) Mail: Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these methods. For instructions on submitting comments, see the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call Lieutenant Commander Marcella Granquist, Waterways Management Division, U.S. Coast Guard Sector Honolulu, telephone 808–842–2600. 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:

#### Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to <http://www.regulations.gov> and will include any personal information you have provided.

#### Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0159), indicate the specific section of this

document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, USCG–2009–0159 in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and we may change the rule based on your comments.

#### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, USCG–2009–0159 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or at Sector Honolulu, 433 Ala Moana Blvd, Honolulu, Hawaii, 96813 between 7:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

#### Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008 issue of the **Federal Register** (73 FR 3316).

## Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

## 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. Today, the CHEHALIS wreck remains a potential pollution threat to the environment. The U.S. Coast Guard is scheduled to conduct dive operations to determine and mitigate the wreck's potential pollution threat to the area from April through May 2009.

## Discussion of Proposed Rule

This temporary 100-foot (30.5 meter) safety zone would be effective from 6 a.m. April 26, 2009 through 8 p.m. May 14, 2009, (local American Samoa time). If suspension of enforcement occurs earlier than May 14, 2009, notice of termination of the rule will be published in the **Federal Register** and will be announced over marine band VHF channel 16 to ensure ample public notification. In accordance with the general regulations in 33 CFR Part 165, Subpart C, no person or vessel would be permitted to 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. Vessels, aircraft, or persons in violation of this proposed rule would be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

## Regulatory Analyses

We developed this proposed 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 proposed 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.

Although this proposed regulation would restrict access to the safety zone, the effect of this rule would not be significant because vessels will be able to transit around the zone. Sector Honolulu COTP 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 proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities since vessels will be allowed to transit around the 100-foot temporary Safety Zone that will often be centered over the CHEHALIS wreck at approximately 350 feet from the fuel dock in Pago Pago Inner Harbor, American Samoa. However, this rule may affect the following entities, some of which may be small entities: Owners and operators of vessels intending to transit the proposed safety zone.

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), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Commander Marcella Granquist, Waterways Management Division, Sector Honolulu, 808–842–2600. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

## Collection of Information

This proposed 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

## Taking of Private Property

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

## Indian Tribal Governments

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

#### Environment

We have analyzed this proposed 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 made a preliminary determination under the Instruction that this action is not likely to have a significant effect on the human environment. An environmental analysis checklist supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### 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 proposes to amend 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; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T14-184 to read as follows:

§ 165.T14-184 Safety Zone; Barge BDL235, Pago Pago, American Samoa.

(a) *Location.* The following area is a temporary safety zone: All waters 100-foot or 30.5 meter radius around the 142 foot Barge, BDL235 while it is performing dive operations in and around the CHEHALIS wreck. The wreck's approximate position is 14°16.52' S, 170°40.56' W and approximately 350 feet north of the fuel dock in Pago Pago Harbor, American Samoa. These coordinates are based upon the National Oceanic and Atmospheric Administration Coast Survey, Pacific Ocean, Samoa Islands, chart 83484.

(b) *Regulations.* (1) Entry into or remaining in the safety zone described in paragraph (a) of this section is prohibited unless authorized by the Coast Guard Captain of the Port Honolulu zone, or his or her designated representative.

(2) Persons desiring to transit the area of the safety zone may contact the Captain of the Port at telephone number 1-808-842-2600, the U.S. Coast Guard Marine Safety Detachment American Samoa at telephone number 1-684-633-2299, or on VHF channel 16 (156.800 MHz) or VHF channel 13 (156.650 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.

(c) *Enforcement period.* This rule will be enforced from 6 a.m. on April 26, 2009 through 8 p.m. on May 14, 2009.

(d) *Regulations.* In accordance with the general regulations in 33 CFR part 165, Subpart C, 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 or her designated representative.

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

Dated: March 19, 2009.

**B. A. Compagnoni,**

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

[FR Doc. E9-7116 Filed 3-26-09; 4:15 pm]

**BILLING CODE 4910-15-P**

#### GENERAL SERVICES ADMINISTRATION

#### 41 CFR Part 102-36

[FMR Case 2009-102-2; Docket 2009-0002, Sequence 2]

RIN 3090-A187

#### Federal Management Regulation; FMR Case 2009-102-2; Disposition of Excess Personal Property

**AGENCY:** Office of Governmentwide Policy, General Services Administration (GSA).

**ACTION:** Proposed rule.

**SUMMARY:** The General Services Administration is proposing to amend the Federal Management Regulation (FMR) by making a change to its personal property policy. The proposed change will update and clarify language that has caused some confusion with our customers and resulted in unnecessarily prolonged periods to remove property.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Mr. Robert Holcombe, Office of Governmentwide Policy, Office of Travel, Transportation, and Asset Management (MT), (202) 501-3828 or e-mail at [robert.holcombe@gsa.gov](mailto:robert.holcombe@gsa.gov). For information pertaining to status or publication schedules contact the Regulatory Secretariat, 1800 F Street, NW., Room 4041, Washington, DC, 20405, (202) 501-4755. Please cite FMR case 2009-102-2.

**DATES:** Interested parties should submit comments in writing on or before June 1, 2009 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FMR case 2009-102-2 by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by inputting "FMR Case 2009-102-2" under the heading "Comment or Submission". Select the