

**PART 1005—IMPORTATION OF ELECTRONIC PRODUCTS**

■ 17. The authority citation for 21 CFR part 1005 continues to read as follows:

Authority: 42 U.S.C. 263d, 263h.

■ 18. Section 1005.3 is revised to read as follows:

**§ 1005.3 Importation of noncomplying goods prohibited.**

The importation of any electronic product for which standards have been prescribed under section 534 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360kk) shall be refused admission into the United States unless there is affixed to such product a certification in the form of a label or tag in conformity with section 534(h) of the act (21 U.S.C. 360kk(h)). Merchandise refused admission shall be destroyed or exported under regulations prescribed by the Secretary of the Treasury unless a timely and adequate petition for permission to bring the product into compliance is filed and granted under §§ 1005.21 and 1005.22.

Dated: March 2, 2004.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 04-5302 Filed 3-9-04; 8:45 am]

BILLING CODE 4160-01-S

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****24 CFR Parts 21 and 24**

[Docket No. FR-4692-C-3]

RIN 2501-AC81

**Suspension, Debarment, Limited Denial of Participation and Drug-Free Workplace; Technical Correction**

**AGENCY:** Office of the General Counsel, HUD.

**ACTION:** Final rule; technical correction.

**SUMMARY:** On November 26, 2003, HUD published a final rule adopting the Interagency Suspension and Debarment Committee's 2003 enactment of a Nonprocurement Common Rule for Suspensions and Debarments (NCR) as well as Drug-Free Workplace regulations. The Department's adoption of the NCR also contained agency specific provisions. This document corrects the final rule by replacing reserved sections with previously published agency specific information and providing agency specific citations.

**DATES:** Effective Date: November 26, 2003.

**FOR FURTHER INFORMATION CONTACT:** Dane Narode, Assistant General

Counsel, Office of Program Enforcement, Administrative Proceedings Division, Department of Housing and Urban Development, 1250 Maryland Avenue, Suite 200, Washington, DC 20024; telephone (202) 708-2350 (this is not a toll-free number); e-mail:

*Dane\_M\_Narode@HUD.gov.* Hearing-impaired or speech-impaired individuals may access the voice telephone number listed above by calling the Federal Information Relay Service toll-free at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** On November 26, 2003 (68 FR 66534), HUD published a final rule adopting the Interagency Suspension and Debarment Committee's NCR, Drug-Free Workplace regulations and enacting agency specific additions to those common rules. In four instances, agency specific provisions were not inserted where necessary to comport with the common rule format.

■ Accordingly, HUD's adoption of, and additions to, the Governmentwide Debarment and Suspension (Nonprocurement) and Requirements for Drug-Free Workplace (Grants) Rules (FR-4692-F-01) published in the **Federal Register** on November 26, 2003 (FR Doc. 03-28454) is correctly amended as follows:

**§ 21.510 [Amended]**

■ 1. Section 21.510(c) on page 66559 is further amended by removing "[CFR citation for the Federal Agency's regulations implementing Executive Order 12549 and Executive Order 12689]" and adding "24 CFR part 24" in its place.

**§ 21.605 [Amended]**

■ 2. Section 21.605(a)(2) on page 66560 is further amended by removing "[Agency specific CFR citation]" and adding "24 CFR part 24" in its place.

**§ 24.25 [Amended]**

■ 3. Section 24.25(a) on page 66545 is further amended by removing "[Reserved]" and adding "Limited Denial of Participation" in its place.

■ 4. Section 24.25(b)(7) on page 66546 is further amended by removing "Reserved" and adding "involved in HUD transactions" in its place.

Dated: March 3, 2004.

**Aaron Santa Anna,**

*Assistant General Counsel for Regulations.*

[FR Doc. 04-5397 Filed 3-9-04; 8:45 am]

BILLING CODE 4210-67-P

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 946****Virginia****CFR Correction**

In Title 30 of the Code of Federal Regulations, part 700 to end, revised as of July 1, 2003, on page 659, § 946.16 is removed.

[FR Doc. 04-55502 Filed 3-9-03; 8:45 am]

BILLING CODE 1505-01-D

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165**

[COTP San Francisco Bay 03-029]

RIN 1625-AA00

**Security Zones; San Francisco Bay, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing fixed security zones extending 25 yards in the U.S. navigable waters around all piers, abutments, fenders and pilings of the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, in San Francisco Bay, 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 doing so is necessary for safe navigation, to conduct official business such as scheduled maintenance or retrofit operations, or unless specifically authorized by the Captain of the Port San Francisco Bay or his designated representative.

**DATES:** This rule is effective April 9, 2004.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket 03-029 and are available for inspection or copying at the Waterways Management Branch between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Doug Ebberts, Waterways Management Branch, U.S. Coast Guard Marine Safety Office San Francisco Bay, (510) 437-3073.

**SUPPLEMENTARY INFORMATION:****Regulatory Information**

On March 19, 2003, we published a rule in the **Federal Register** (68 FR 13228) creating temporary § 165.T11-078 of Title 33 of the Code of Federal Regulations (CFR). Under temporary § 165.T11-078, which expired at 11:59 p.m. P.d.t. on September 30, 2003, the Coast Guard established 25-yard fixed security zones around all piers, abutments, fenders and pilings of the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, San Francisco Bay, California.

On September 25, 2003, a change in effective period temporary rule was published in the **Federal Register** (68 FR 55312) under the same previous temporary section 165.T11-078, extending the rule to 11:59 p.m. P.s.t. on March 31, 2004.

On November 25, 2003, we published a notice of proposed rulemaking (NPRM) in the **Federal Register** (68 FR 66064), proposing to establish permanent, fixed security zones extending 25 yards in the U.S. navigable waters around all piers, abutments, fenders and pilings of the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, San Francisco Bay, California. We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

**Penalties for Violating Security Zone**

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 zones 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.

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.

**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 the conflict in Iraq have made it prudent for U.S. ports to be on a higher state of alert because Al-Qaeda and other 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 the Golden Gate Bridge or San Francisco-Oakland Bay Bridge would have on the public, the Coast Guard is establishing fixed security zones extending 25 yards in the U.S. navigable waters around all piers, abutments, fenders and pilings. These security zones help the Coast Guard to prevent vessels or persons from engaging in terrorist actions against these two bridges. In addition to restricting access to critical parts of bridge structures, these security zones provide necessary standoff distance for blast and collision, a surveillance and detection perimeter, and a margin of response time for security personnel.

This rule prohibits entry of any vessel or person inside the security zone without specific authorization from the Captain of the Port or his designated representative. Due to heightened security concerns, and the catastrophic impact a terrorist attack on one of these

bridges would have on the public, the transportation system, and surrounding areas and communities, security zones are prudent for these structures.

**Discussion of Comments and Changes**

We received no letters commenting on this rule. No public hearing was requested, and none was held. Accordingly, we have not changed our final rule from the rule we proposed in November 2003.

**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 Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. Although this rule restricts access to the waters encompassed by the security zones, the effect of this rule is not significant because: (i) the zones encompass only a small portion of the waterway; (ii) vessels are able to pass safely around the zones; and (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.

The size of the zones is the minimum necessary to provide adequate protection for the bridges. The entities most likely to be affected are commercial vessels transiting the main ship channel en route to the San Francisco Bay and Delta ports, fishing vessels, and pleasure craft engaged in recreational activities and sightseeing.

**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. We

expect this rule may affect owners and operators of private vessels, some of which may be small entities, intending to fish or sightsee near bridge pilings or abutments affected by these security zones. The security zones will not have a significant economic impact on a substantial number of small entities for several reasons: small vessel traffic will be able to 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. 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 (Public Law 104–121), we offered to assist small entities in understanding the rule so that they could 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).

#### 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.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National

Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded 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 because we are establishing a security zone. An “Environmental Analysis Check List” and a “Categorical Exclusion Determination” (CED) are 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, 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; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 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. Add § 165.1187, to read as follows:

#### § 165.1187 Security Zones; Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, San Francisco Bay, California.

(a) *Location.* All waters extending from the surface to the sea floor, within 25 yards of all piers, abutments, fenders and pilings of the Golden Gate Bridge and the San Francisco-Oakland Bay Bridge, in San Francisco Bay, California.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into these security zones is prohibited, unless doing so is necessary for safe navigation, to conduct official business such as scheduled maintenance or retrofit operations, or unless specifically authorized by the 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 415–399–3547 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.

(c) *Enforcement.* All persons and vessels shall comply with the

instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. Patrol personnel comprise commissioned, warrant, and petty officers of the Coast Guard onboard Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels. Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: February 25, 2004.

**Gerald M. Swanson,**

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

[FR Doc. 04-5349 Filed 3-9-04; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2004-0028; FRL-7345-3]

### Pyriproxyfen; Pesticide Tolerance for Emergency Exemption

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for residues of pyriproxyfen in or on celery. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on celery. This regulation establishes a maximum permissible level for residues of pyriproxyfen in this food commodity. The tolerance will expire and is revoked on June 30, 2007.

**DATES:** This regulation is effective March 10, 2004. Objections and requests for hearings, identified by docket ID number OPP-2004-0028, must be received on or before May 10, 2004.

**ADDRESSES:** Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9364; e-mail address: [sec-18-mailbox@epamail.epa.gov](mailto:sec-18-mailbox@epamail.epa.gov).

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop producers (NAICS 111)
- Animal producers (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

### B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP-2004-0028. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment

system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

## II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the insecticide pyriproxyfen, 2-[1-methyl-2(4-phenoxyphenoxy)ethoxypyridine], in or on celery at 2.5 parts per million (ppm). This tolerance will expire and is revoked on June 30, 2007. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 of the FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of the FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA