

extending from the 6.8-mile radius to 7.4 miles south of the airport, excluding that airspace within a ½ mile radius of Rooke Field, and excluding that airspace within the Corpus Christi, TX Class E airspace area.

\* \* \* \* \*

Issued in Fort Worth, TX, on April 22, 2009.

**Roger M. Trevino,**

*Acting Manager, Operations Support Group,  
ATO Central Service Center.*

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## SECURITIES AND EXCHANGE COMMISSION

### 17 CFR Part 200

[Release No. 34-59829]

### Delegation of Authority to the General Counsel

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is amending its rules to delegate to the General Counsel its authority to designate officers in authorized investigations conducted by the Office of General Counsel. The Office of General Counsel of the Commission has the authority to conduct authorized investigations under Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) of possible violations by attorneys of the Commission Rules of Practice. In connection with these investigations, it may be necessary from time to time to amend the formal orders to add or remove officers designated to conduct the inquiry.

A delegation of authority to the General Counsel to designate officers would spare the Commissioners and their staffs from having to review matters in which the Commission has already issued an order and which implicate no policy issues. This would allow the General Counsel to designate additional officers to take testimony and conduct investigations in those matters or similarly remove officer designations as may be necessary. This authority is identical to that granted to the Director of the Division of Enforcement with respect to authorized investigations conducted by that Division.

**DATES:** *Effective Date:* May 4, 2009.

**FOR FURTHER INFORMATION CONTACT:** Donna McCaffrey, 202-551-5174, Office of General Counsel, Office of Litigation and Administrative Practice, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9612.

**SUPPLEMENTARY INFORMATION:** Section 21 (a)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) authorizes the Commission to conduct investigations regarding violations of the Exchange Act or its related rules or regulations. As part of such investigations, under Section 21(b) of the Exchange Act, the Commission may designate officers to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records which the Commission deems relevant or material to the inquiry.

The Commission is delegating to the General Counsel the authority to designate additional officers in authorized investigations and to remove designated officers as necessary. This delegated authority will also apply to already authorized investigations by the Commission, so the delegation will allow the General Counsel to designate additional officers for an authorized investigation or rescind designations as the investigation proceeds.

Nevertheless, the staff may submit matters to the Commission for consideration, as it deems appropriate.

#### *Administrative Law Matters:*

The Commission finds, in accordance with the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(A)), that this revision relates solely to agency organization, procedures, or practices. Therefore, the provisions of the APA regarding notice of the proposed rulemaking and opportunities for public participation are not applicable.<sup>1</sup> For the same reason, and because these amendments do not substantially affect the rights or obligations of non-agency parties, the provisions of the Small Business Regulatory Enforcement Fairness Act are not applicable.<sup>2</sup> Additionally, the provisions of the Regulatory Flexibility Act, which apply only when notice and comment are required by the APA or other law, are not applicable.<sup>3</sup> Section 23(a)(2) of the Exchange Act requires the Commission, in adopting rules under the Act, to consider the anticompetitive effects of any rules it adopts. The Commission does not believe this rule will have any impact on competition because it imposes no new burdens on parties in authorized investigations. Finally, these amendments do not contain any collection of information requirements as defined by the

<sup>1</sup> 5 U.S.C. 533.

<sup>2</sup> 5 U.S.C. 804(3)(C).

<sup>3</sup> 5 U.S.C. 603.

Paperwork Reduction Act of 1995, as amended.<sup>4</sup>

Accordingly, it is effective May 4, 2009.

### List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Authority delegations (Government agencies).

### Text of Amendment

■ For the reasons set out in the Preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows:

### PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

■ 1. The authority citation for part 200, subpart A, continues to read in part as follows:

**Authority:** 15 U.S.C. 77o, 77s, 77sss, 78d, 78d-1, 78d-2, 78w, 78ll(d), 78mm, 80a-37, 80b-11, and 7202, unless otherwise noted.

\* \* \* \* \*

■ 2. Section 200.30-14 is amended by adding paragraph (m) to read as follows:

#### § 200-30-14 Delegation of authority to the General Counsel.

\* \* \* \* \*

(m)(1) To designate officers empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records in the course of investigations instituted by the Commission pursuant to Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) including for possible violations by attorneys of Rule 102(e) of the Commission Rules of Practice (17 CFR 201.102(e)).

(2) To terminate the authority of officers to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records in the course of investigations instituted by the Commission pursuant to Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) including for possible violations by attorneys of Rule 102(e) of the Commission Rules of Practice (17 CFR 201.102(e)).

By the Commission.

<sup>4</sup> 44 U.S.C. 3501 *et seq.*

Dated: April 28, 2009.

Elizabeth M. Murphy,

Secretary.

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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: Temporary final rule.

**SUMMARY:** The Coast Guard is establishing 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 (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:** This rule is effective from 6 a.m. local American Samoa time on April 23, 2009 through 8 p.m. local American Samoa time on May 09, 2009. If suspension of enforcement occurs earlier than May 9, 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.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2009-0159 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2009-0159 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at 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.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary

rule, call or e-mail Lieutenant Commander Marcella Granquist, Waterways Management Division, U.S. Coast Guard Sector Honolulu, telephone 808-842-2600, e-mail [Marcella.A.Granquist@uscg.mil](mailto:Marcella.A.Granquist@uscg.mil). 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:

##### Regulatory Information

On March 31, 2009, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Barge BDL235, Pago Pago Harbor, American Samoa in the **Federal Register** (73 FR 3316). We received no comments on the proposed rule.

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**. The safety zone is necessary to protect other vessels, the general public, and the divers from hazards associated with dive operations.

##### 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 Comments and Changes

No comments were received and no changes were made.

##### 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.

Vessels will be able to transit around the zone. The Sector Honolulu Captain

of the Port 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 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 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 be centered over the CHEHALIS wreck at approximately 350 feet from the fuel dock in Pago Pago Inner Harbor, American Samoa.

##### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), in the NPRM 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). 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