

preparation or substantial alteration in the method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making these interim order amendments effective March 1, 2003. It would be contrary to the public interest to delay the effective date of these amendments for 30 days after publication in the **Federal Register**. (Sec. 553 (d)), Administrative Procedure Act, (5 U.S.C. 551–559)

(c) *Determinations*. It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the specified marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this interim order amending the Central order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended;

(3) The issuance of the interim order amending the Central order is favored by at least two-thirds of the producers who were engaged in the production of milk for sale in the marketing area.

#### List of Subjects in 7 CFR Part 1032

Milk marketing orders.

#### Order Relative to Handling

*It is therefore ordered*, that on and after the effective date hereof, the handling of milk in the Central marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby further amended on an interim basis, as follows:

The authority citation for 7 CFR Part 1032 reads as follows:

**Authority:** 7 U.S.C. 601–674.

#### PART 1032—MILK IN THE CENTRAL MARKETING AREA

1. Section 1032.7 is amended by:

- (a) Revising the introductory text of paragraph (c),
  - (b) Revising paragraph (c)(1),
  - (c) Revising paragraph (c)(2),
  - (d) Removing paragraph (c)(4) and redesignating paragraph (c)(5) as paragraph (c)(4); and
  - (e) Adding a new paragraph (c)(5).
- The revisions read as follows:

##### § 1032.7 Pool plant.

\* \* \* \* \*

(c) A supply plant from which the quantity of bulk fluid milk products

shipped to (and physically unloaded into) plants described in paragraph (c)(1) of this section is not less than 20 percent during the months of August through February and 15 percent in all other months of the Grade A milk received from dairy farmers (except dairy farmers described in § 1032.12(b)) and from handlers described in § 1000.9(c), including milk diverted pursuant to § 1032.13, subject to the following conditions:

(1) Qualifying shipments may be made to plants described in paragraphs (a) or (b) of this section;

(2) The operator of a pool plant located in the marketing area may include as qualifying shipments milk delivered directly from producer's farms pursuant to § 1000.9(c) or § 1032.13(c). Handlers may not use shipments pursuant to § 1000.9(c) or § 1032.13(c) to qualify plants located outside the marketing area;

\* \* \* \* \*

(5) Shipments used in determining qualifying percentages shall be milk transferred or diverted to and physically received by pool distributing plants, less any transfers or diversions of bulk fluid milk products from such pool distributing plants.

\* \* \* \* \*

2. Section 1032.13 is amended by:

- (a) Revising paragraph (d)(2)
- (b) Redesignating paragraphs (d)(3), (d)(4), and (d)(5), as (d)(4), (d)(5), and (d)(6), respectively.

(c) Adding a new paragraph (d)(3)

(d) Adding a new paragraph (e).

The revisions read as follows:

##### § 1032.13 Producer milk.

\* \* \* \* \*

(d) \* \* \*

(2) Of the quantity of producer milk received during the month (including diversions, but excluding the quantity of producer milk received from a handler described in § 1000.9(c)) the handler diverts to nonpool plants not more than 80 percent during the months of August through February, and not more than 85 percent during the months of March through July, provided that not less than 20 percent of such receipts in the months of August through February and 15 percent of the remaining months' receipts are delivered to plants described in § 1032.7(a) and (b);

(3) Receipts used in determining qualifying percentages shall be milk transferred to or diverted to or physically received by a plant described in § 1032.7(a) or (b) less any transfer or diversion of bulk fluid milk products from such plants.

\* \* \* \* \*

(e) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program imposed under the authority of a State government maintaining marketwide pooling of returns.

\* \* \* \* \*

Dated: February 6, 2003.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 03–3443 Filed 2–11–03; 8:45 am]

**BILLING CODE 3410–02–P**

#### CONSUMER PRODUCT SAFETY COMMISSION

##### 16 CFR Part 1512

#### Requirements for Low-Speed Electric Bicycles

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Final rule.

**SUMMARY:** Public Law 107–319, 116 Stat. 2776 (the Act), enacted December 4, 2002, subjects low-speed electric bicycles to the Commission's existing regulations at 16 CFR part 1512 and 16 CFR 1500.18(a)(12) for bicycles that are solely human powered. For purposes of this requirement, the Act defines a low-speed electric bicycle as “a two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph.” Public Law No. 107–319, section 1, 116 Stat. 2776 (2002). The Commission is issuing this immediately effective amendment to its requirements for bicycles at 16 CFR part 1512 to promptly inform the public of the newly enacted statutory requirement on low-speed electric bicycles.

**DATES:** This amendment is effective upon publication in the **Federal Register**, that is, on February 12, 2003.

**FOR FURTHER INFORMATION CONTACT:** Lowell Martin, Esq., Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–7628; e-mail [lmartin@cpsc.gov](mailto:lmartin@cpsc.gov).

**SUPPLEMENTARY INFORMATION:** Public Law 107–319 (the Act), enacted December 4, 2002, amends the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051, *et seq.*, by adding a new

section 38 establishing requirements for low speed electric bicycles.

Specifically, section 1 of the Act makes low-speed electric bicycles subject to the Commission's existing regulations on bicycles.

(a) Notwithstanding any other provision of law, low-speed electric bicycles are consumer products within the meaning of section 3(a)(1) [of the CPSA] and shall be subject to the Commission regulations published at § 1500.18(a)(12) and part 1512 of title 16, Code of Federal Regulations.

Public Law 107–319, section 1, 116 Stat. 2776.

The Act defines the term “low-speed electric bicycle” as follows:

(b) for purposes of this section, the term “low-speed electric bicycle” means a two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph.

Id.

The Commission's regulation at 16 CFR 1500.18(a)(12) makes the determination that bicycles that do not comply with the requirements of 16 CFR part 1512 present a mechanical hazard within the meaning of section 2(s) of the Federal Hazardous Substances Act (FHSA). 15 U.S.C. 1261(s). The effect of this determination is that noncomplying bicycles are “hazardous substances” for purposes of section 2(f)(1)(D) of the FHSA, and are also “banned hazardous substances” pursuant to section 2(q)(1)(A) of the FHSA. 15 U.S.C. 1261(f)(1)(D), 1261(q)(1)(A). See also, *Forester v. Consumer Product Safety Com'n*, 559 F.2d 774, 783–786 (D.C. Cir. 1977).

The amendment to § 1512.2 of 16 CFR part 1512 promulgated today incorporates the Act's definition of “low-speed electric bicycle,” thereby helping to inform the public of the statutory application of part 1512 to low-speed electric bicycles.

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) authorizes an agency to dispense with certain notice procedures for a rule when it finds “good cause” to do so. 5 U.S.C. 553(b)(3)(B). Specifically, under section 553(b)(3)(B), the requirement for notice and an opportunity to comment does not apply when the agency, for good cause, finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” The requirement reflected in this amendment is imposed by the Act and is not discretionary with the Commission. Accordingly, the Commission hereby finds that notice

and an opportunity for comment on this amendment are unnecessary.

Section 553(d)(3) of the APA authorizes an agency, “for good cause found and published with the rule,” to dispense with the otherwise applicable requirement that a rule be published in the **Federal Register** at least 30 days before its effective date. The Commission hereby finds that the 30 day delay in effective date is unnecessary because the requirement reflected in the amendment was imposed by the Act and is not discretionary with the Commission.

Because this amendment incorporates a requirement mandated by statute that is not discretionary with the Commission, and thus is not subject to notice and comment, this rule is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* Because this amendment incorporates a statutory requirement not subject to agency discretion, it is not an agency action subject to the National Environmental Policy Act, 42 U.S.C. 4321, *et seq.*

Pursuant to Executive Order No. 12988, the Commission states the preemptive effect of this regulation as follows. Section 1 of the Act provides that its requirements “shall supercede any State law or requirement with respect to low-speed electric bicycles to the extent that such State law or requirement is more stringent than the Federal law or requirements referred to in subsection (a) [the Commission's regulations on bicycles at 16 CFR part 1512].” Public Law No. 107–319, section 1, 116 Stat. 2776.

#### List of Subjects in 16 CFR Part 1512

Consumer protection, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, and Toys.

For the foregoing reasons, the Commission amends Title 16 of the Code of Federal Regulation to read as follows:

#### PART 1512—REQUIREMENTS FOR BICYCLES

1. The authority citation for Part 1512 is revised to read as follows:

**Authority:** Secs. 2(f)(1)(D), (q)(1)(A), (s), 3(e)(1), 74 Stat. 372, 374, 375, as amended, 80 Stat. 1304–05, 83 Stat. 187–89 (15 U.S.C. 1261, 1262); Pub. L. 107–319, 116 Stat. 2776.

##### § 1512.2. [Amended]

2. Amend § 1512.2, to revise paragraph (a) to read as follows:

(a) Bicycle means:

(1) A two-wheeled vehicle having a rear drive wheel that is solely human-powered;

(2) A two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph.

Dated: February 6, 2003.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 03–3423 Filed 2–11–03; 8:45 am]

BILLING CODE 6355–01–P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP San Diego 03–009]

RIN 2115–AA97

#### Security Zone; San Diego Bay

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily expanding the geographical boundaries of the permanent security zone at Naval Submarine Base San Diego, California (33 CFR 165.1103) at the request of the U.S. Navy. The additional size will accommodate the Navy's placement of anti-small boat barrier booms on the perimeter of the zone. Entry into this zone is prohibited unless authorized by the Captain of the Port, the Commander, Naval Base San Diego, or the Commander, Submarine Force, U.S. Pacific Fleet Representative, West Coast.

**DATES:** This rule is effective from 11:59 p.m. on February 11, 2003 to 11:59 p.m. on May 11, 2003.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket [COTP San Diego 03–009], and are available for inspection or copying at U.S. Coast Guard Marine Safety Office San Diego, 2716 N. Harbor Drive, San Diego California 92101, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Rick Sorrell, Chief of Port Operations, Marine Safety Office San Diego, at (619) 683–6495.

#### SUPPLEMENTARY INFORMATION

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this temporary regulation. Under 5 U.S.C.