

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG–2010–0529]

**RIN 1625–AA00**

**Safety Zone; Bay Swim III, Presque Isle Bay, Erie, PA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for a swimming event in the Captain of the Port Buffalo zone. This rule is intended to restrict vessels from areas of water during events that pose a hazard to public safety. The safety zone established by this rule is necessary to protect participants and vessels from the hazards associated with a swimming event.

**DATES:** This rule is effective from 9 a.m. to 11 a.m. on June 26, 2010.

**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–2010–0529 and are available online by going to <http://www.regulations.gov>, inserting USCG–2010–0529 in the “Keyword” box, and then clicking “Search.” 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.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG–2010–0529 and are available online by going to <http://www.regulations.gov>, inserting USCG–2010–0529 in the “Keyword” box, and then clicking “Search.” They are 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 Brian Sadler, Waterways Management Division Chief, U.S. Coast Guard Sector Buffalo, at Coast Guard; telephone 716–843–9573, e-mail [Brian.L.Sadler@uscg.mil](mailto:Brian.L.Sadler@uscg.mil). 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 the publishing of an NPRM would be impracticable and contrary to public interest since immediate action is needed to ensure the public’s safety during the swim race. The danger posed by the combination of participants swimming in the open water in Lake Erie along with motor vessels sharing the same area of water, presents a high risk of serious injuries or fatalities. Delaying the implementation of the safety zone would subject the public to the hazards associated with the event.

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**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

**Basis and Purpose**

Temporary safety zones are necessary to ensure the safety of participants and vessels from the hazards associated with swimming event. The Captain of the Port Buffalo has determined that swimming events present a significant risk to public safety. The likely combination of participants swimming in the open water in Lake Erie along with motor vessels sharing the same area of water, presents a high risk of serious injuries or fatalities.

**Discussion of Rule**

A temporary safety zone is necessary to ensure the safety of participants, spectators and vessels in conjunction with the Bay Swim III swimming event. The safety zone will be effective from 9 a.m. to 11 a.m. on June 26, 2010. The safety zone will encompass specified

waters of Presque Isle Bay, Lake Erie, near Erie, Pennsylvania starting at position 42°07′34″ N, 80°08′11″ W; then South East to 42°07′22″ N, 80°07′48″ W; then West to 42°07′24″ N, 80°08′48″ W; then North East returning to the point of origin to form a triangle (DATUM: NAD 83).

**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.

Although this regulation will apply to the specified waters of the Lake Erie, the zone will not have a significant impact on small entities because the zone will only be in place for a limited duration of time and maritime advisories will be issued in advance to allow the public to adjust their plans accordingly.

**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 temporary final rule may affect the following entities, some of which might be small entities: The owners of operators of vessels intending to transit or anchor in a portion of Presque Isle Bay, Lake Erie, near Erie, Pennsylvania between 9 a.m. to 11 a.m. on June 26, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for two hours for one day and the safety zone will allow vessels to move freely around the safety zone on Presque Isle Bay.

### 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 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will not cause 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 023–01 and Commandant Instruction M16475.1D, 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 this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves a temporary safety zone and as such is covered by this paragraph.

An environmental analysis checklist and a categorical exclusion determination 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, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 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. Chapters 701; 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. Add § 165.T09–0529 to read as follows:

#### § 165.T09–0529 Safety Zone; Bay Swim III, Presque Isle Bay, Erie, PA

(a) *Location.* The safety zone will encompass specified waters of Presque Isle Bay, Erie, Pennsylvania starting at position 42°07'34" N, 80°08'11" W; then South East to 42°07'22" N, 80°07'48" W; then West to 42°07'24" N, 80°08'48" W; then returning North East to the point of origin to form a triangle (DATUM: NAD 83).

(b) *Effective Period.* This regulation is effective from 9 a.m. to 11 a.m. on June 26, 2010.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within an enforced safety

zone established by this section is prohibited unless authorized by the Captain of the Port Buffalo or his on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his on-scene representative.

(3) The "on-scene representative" of the Captain of the Port Buffalo, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf. The on-scene representative of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf.

(4) Vessel operators desiring to enter or operate within an enforced safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 15, 2010.

**R.S. Burchell,**

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

[FR Doc. 2010-15394 Filed 6-24-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### 37 CFR Parts 1, 102 and 104

[Docket No. PTO-C-2006-0049]

RIN 0651-AC08

#### Correspondence With the United States Patent and Trademark Office

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Final rule.

**SUMMARY:** The United States Patent and Trademark Office (Office) is revising the rules of practice to update the service addresses for certain correspondence to the Office of the General Counsel (OGC) and a component of OGC, the Office of the Deputy General Counsel for Intellectual Property Law and Solicitor (Office of the Solicitor). The Office is also updating the physical location address for the Public Search Room.

**DATES: Effective Date:** The changes in this final rule are effective on June 25, 2010.

**Compliance Date:** The compliance date for correspondence to the Office of the General Counsel and the Office of the Solicitor is July 26, 2010.

**FOR FURTHER INFORMATION CONTACT:** Kyu S. Lee, Office of the General Counsel, Office of General Law, by telephone at 571-272-3000.

**SUPPLEMENTARY INFORMATION:** The United States Patent and Trademark Office (Office) is revising the rules of practice to update the service addresses for certain correspondence to the Office of the General Counsel (OGC) and a component of OGC, the Office of the Deputy General Counsel for Intellectual Property Law and Solicitor (Office of the Solicitor). The Office no longer has facilities in the Crystal City (Arlington, Virginia) location. Accordingly, revised service addresses for certain correspondence to the Office of the General Counsel and the Office of the Solicitor have been established at the Office's Alexandria, Virginia location. Although the effective date of the address change is June 25, 2010, both the Arlington, Virginia and Alexandria, Virginia addresses may be used until July 26, 2010. However, after July 26, 2010, only the revised address in Alexandria, Virginia may be used. Appropriate sections of the Office's Manual of Patent Examining Procedure (MPEP) will be revised to conform to the final rule.

*The Office of the Deputy General Counsel for Intellectual Property Law and Solicitor:* Specifically, the Office is changing the mailing address for correspondence to counsel for the Director of the Office of Enrollment and Discipline relating to disciplinary proceedings pending before a Hearing Officer or the Director from Arlington, Virginia to Alexandria, Virginia. The Office is also amending the mailing address for general correspondence to the Office of the Solicitor, by specifically adding the Office of the Solicitor as the addressee.

*Public Search Room:* The physical address for the Public Search Room is being updated to reflect that it is located at the Office's Alexandria, Virginia campus and is no longer in Arlington, Virginia.

*The Office of the General Counsel:* The Office is changing the Office of the General Counsel's mailing address for litigation and service from Arlington, Virginia to Alexandria, Virginia.

#### Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, is amended as follows:

*Part 1:* Section 1.1 is amended to: (1) Change the Office of the Solicitor's address for correspondence to counsel for disciplinary proceedings to "Mail Stop 8, Office of the Solicitor, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450"; and (2) change the Office of the Solicitor's address for general correspondence to "Mail Stop 8, Office of the Solicitor, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450."

*Part 102:* Section 102.2 is amended to change the location address for the Public Search Room to "Public Search Room, Madison Building East, First Floor, 600 Dulany Street, Alexandria, Virginia."

*Part 104:* Section 104.2 is amended to: (1) Change the mailing address to "Office of the General Counsel, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450."

#### Rulemaking Considerations

*Administrative Procedure Act:* Since this final rule is directed to changing Office addresses, this final rule merely involves rules of agency organization, procedure, or practice within the meaning of 5 U.S.C. 553(b)(A). Accordingly, this final rule may be adopted without prior notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d).

*Regulatory Flexibility Act:* As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required. See 5 U.S.C. 603.

*Executive Order 13132:* This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

*Executive Order 12866:* This rule making has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

*Paperwork Reduction Act:* This rule making does not create any information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.