

dates are: May 2, May 30, June 27, July 18, August 8, September 5, and September 26, 2009. The Captain of the Port Pittsburgh or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

(d) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Pittsburgh.

(2) Persons or vessels requiring entry into or passage through a safety zone must request permission from the Captain of the Port Pittsburgh or a designated representative. They may be contacted on VHF-FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1-800-253-7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Pittsburgh and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel includes Commissioned, Warrant, and Petty Officers of the U.S. Coast Guard.

Dated: March 9, 2009.

**S.M. Wischmann,**

*Commander, U.S. Coast Guard, Captain of the Port Pittsburgh.*

[FR Doc. E9-10240 Filed 5-4-09; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0175]

RIN 1625-AA00

### Safety Zone; Allegheny River, Pittsburgh, PA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard has established a temporary safety zone from mile marker 0.0 (Point State Park) on the Allegheny River to mile marker 1.0 (Norfolk and Southern Railroad Bridge), extending 328 feet out from the left descending bank. This safety zone is needed to protect spectators and vessels from the hazards associated with the Venture Outdoors Festival event. Entry into this zone is prohibited, unless specifically authorized by the Captain of the Port Pittsburgh or a designated representative.

**DATES:** This rule is effective from 11 a.m. until 6 p.m. on May 16, 2009.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0175 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-2009-0175 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying at two locations: 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, and the U.S. Coast Guard Marine Safety Unit Pittsburgh, Suite 1150 Town Place, 100 Forbes Avenue, Pittsburgh, PA 15222, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call Lieutenant Junior Grade Douglas Kang, Marine Safety Unit Pittsburgh, telephone 412-644-5808. 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 immediate action is needed to protect participant and spectator craft from the hazards associated with the Venture Outdoors Festival 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**. Publishing an NPRM and delaying its effective date would be contrary to public interest because immediate action is needed to protect participant and spectator craft from the

hazards associated with the Venture Outdoors Festival event.

### Background and Purpose

The Coast Guard has established a temporary safety zone from mile marker 0.0 (Point State Park) on the Allegheny River to mile marker 1.0 (Norfolk and Southern Railroad Bridge), extending 328 feet out from the left descending bank. This safety zone is needed to protect spectators and vessels from the hazards associated with the Venture Outdoors Festival event.

### Discussion of Rule

The Captain of the Port Pittsburgh is establishing a safety zone from mile marker 0.0 (Point State Park) on the Allegheny River to mile marker 1.0 (Norfolk and Southern Railroad Bridge), extending 328 feet out from the left descending bank. Vessels shall not enter into, depart from, or move within this safety zone without permission from the Captain of the Port Pittsburgh or his authorized representative. Persons or vessels requiring entry into or passage through a safety zone must request permission from the Captain of the Port Pittsburgh, or a designated representative. They may be contacted on VHF-FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1-800-253-7465. This rule is effective from 11 a.m. until 6 p.m. on May 16, 2009. The Captain of the Port Pittsburgh will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

### 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.

This rule will be in effect for a short period of time and notifications to the marine community will be made through broadcast notices to mariners. The impacts on routine navigation are expected to be minimal.

## 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 rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit that portion of the waterways from mile marker 0.0 (Point State Park) on the Allegheny River to mile marker 1.0 (Norfolk and Southern Railroad Bridge), extending 328 feet out from the left descending bank from 11 a.m. to 6 p.m. on Saturday, May 16, 2009. This safety zone will not have a significant economic impact on a substantial number of small entities because this rule will only be in effect for a short period of time.

## 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.

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 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.

## 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 0023–01 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 concluded that this action is one of a category of actions which 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, from further environmental documentation.

Under figure 2–1, paragraph (34)(g.), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this 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 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, 3306, 3703; 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.T08–0175 to read as follows:

**§ 165.T08–0175 Safety Zone; Allegheny River, Pittsburgh, PA.**

(a) *Location.* The following area is a Safety Zone: the portion of the waterways from mile marker 0.0 (Point State Park) on the Allegheny River to mile marker 1.0 (Norfolk and Southern Railroad Bridge), extending 328 feet out from the left descending bank.

(b) *Effective date.* This rule is effective from 11 a.m. until 6 p.m. on May 16, 2009.

(c) *Periods of Enforcement.* This rule will only be enforced from 11 a.m. until 6 p.m. on May 16, 2009. The Captain of the Port Pittsburgh or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the safety zone as well as any changes in the planned schedule.

(d) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Pittsburgh.

(2) Persons or vessels requiring entry into or passage through a safety zone must request permission from the Captain of the Port Pittsburgh or a designated representative. They may be contacted on VHF–FM Channel 13 or 16, or through Coast Guard Sector Ohio Valley at 1–800–253–7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Pittsburgh and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel includes Commissioned, Warrant, and Petty Officers of the U.S. Coast Guard.

Dated: March 31, 2009.

**S.T. Higman,**

*Lieutenant Commander, U.S. Coast Guard,  
Acting Captain of the Port Pittsburgh.*

[FR Doc. E9–10242 Filed 5–4–09; 8:45 am]

**BILLING CODE 4910–15–P**

**POSTAL SERVICE****39 CFR Part 955****Rules of Practice Before the Postal Service Board of Contract Appeals**

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** This document contains the final revisions to the rules of procedure before the Postal Service Board of Contract Appeals (Board), which will govern all proceedings before the Board. These rules of procedure completely replace and supersede the prior rules.

**DATES: Effective Date:** June 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Administrative Judge Gary E. Shapiro, Board Member, (703) 812–1910.

**SUPPLEMENTARY INFORMATION:** On February 11, 2009, the Board published for comment a proposed revision to the rules governing practice before the Board (74 FR 6845). Following the receipt of comments, the Board has made further revisions to its original proposal, as discussed below, and has determined that it is appropriate to adopt the rules of practice, as revised. The Board has also determined that it is appropriate to make these rules of practice effective on June 1, 2009, in the interest of orderly public administration.

**A. Executive Summary**

The rules governing proceedings involving contract disputes before the Postal Service Board of Contract Appeals are set forth in 39 CFR Part 955. The Board has adopted these rules pursuant to its authority contained in the Contract Disputes Act of 1978 (41 U.S.C. 601–613).

**B. Background**

The Board published proposed rules and a request for comments in the **Federal Register** on February 11, 2009 (74 FR 6845). This notice announced the intention to promulgate final rules of procedure, following the Board's review and consideration of all comments. The period for comments closed on March 13, 2009. The Board has considered all comments received, has revised the proposed rules as explained below, and now promulgates its final rules of procedure.

**C. Summary of Comments and Changes**

The Board received comments from three sources: the General Counsel's Office of the United States Postal Service, which represents the Postal Service in all Board proceedings; a law firm which practices regularly before the Board; and a bar association whose members practice before the various boards of contract appeals. The Board carefully considered each comment and adopted several of the suggestions made. The more significant of those comments are discussed below.

**Section 955.1 Jurisdiction, Procedure, Service of Documents**

The Board adopted a comment that the Board's working hours be specified for purposes of filing. The same commenter suggested that the Board address electronic filing, and adopt it as soon as possible. The Board recognizes advantages of electronic filing but is not presently in a position to provide a system to implement electronic filing. Electronic service between parties is not prohibited by the rules.

The Board adopted a comment to include an exception to the new requirement that requests for extensions of time must represent that the moving party has contacted the opposing party about the request, for situations in which the moving party unsuccessfully has made reasonable and good faith efforts to do so. The Board also adopted a comment concerning filings by fax and clarified that such filings are to be followed by filing by mail.

**Section 955.3 Contents of Notice of Appeal**

One commenter suggested that the Board identify the presiding judge and indicate the availability of alternative dispute resolution early in the proceedings. The Board's existing practice already includes identifying in the Notice of Docketing the availability of and providing information about alternative dispute resolution. The Board deems it advisable to leave further discussion of alternative dispute resolution to the discretion of the presiding judge based upon the circumstances of the appeal. The Board's practice has been not to assign a presiding judge formally to permit flexibility within the Board. Parties wishing to contact the presiding judge should inquire with the Board's Recorder.

The Board adopted a comment clarifying identification of the contract at issue in notices of appeal.