

- Mail/Hand Delivery/Courier: Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252, 1951 Constitution Avenue, NW., Washington, DC 20240.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Following the instructions for submitting comments.

- Docket: You may review the docket (administrative record) for this rulemaking including comments received in response to this proposed rule at the Office of Surface Mining Reclamation and Enforcement, Administrative Record, located in Room 101, 1951 Constitution Avenue, NW., Washington, DC 20240. The Administrative Record office is opened Monday through Friday, excluding holidays from 8 a.m. to 4 p.m. The telephone number is 202-208-2847.

If you wish to comment on the information collection aspects of this proposed rule, submit your comments to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Interior Desk Officer, via electronic mail, to [OIRA\\_DOCKET@omb.eop.gov](mailto:OIRA_DOCKET@omb.eop.gov) or via telefacsimile at 202-395-6566.

**FOR FURTHER INFORMATION CONTACT:** Earl D. Bandy, Jr., Office of Surface Mining Reclamation and Enforcement, Appalachian Region, Applicant/Violator System Office, 2679 Regency Road, Lexington, Kentucky 40503. Telephone: 859-260-8424 or 800-643-9748. E-mail: [ebandy@osmre.gov](mailto:ebandy@osmre.gov).

**SUPPLEMENTARY INFORMATION:** On January 26, 2005 (70 FR 3840), we published a proposed rule that would revise our regulations for, and related to, the transfer, assignment, or sale of permit rights. The proposed rule effectuates a settlement agreement we entered into with the National Mining Association (NMA) in connection with NMA's judicial challenge to certain provisions of our December 19, 2000, final ownership and control rule (2000 ownership and control rule or 2000 rule). In the proposed rule, we propose to: (1) Revise the regulatory definitions of *transfer*, *assignment*, or *sale of permit rights* and *successor in interest*; (2) revise the regulatory provisions relating to transfer, assignment, or sale of permit rights; and (3) create separate rules for successors in interest. The primary purpose of the proposed rule is to distinguish clearly the circumstances that will constitute a transfer, assignment, or sale of permit rights (requiring a regulatory authority's approval and, at a minimum, a permit revision) or result in a successor in interest (requiring the issuance of a new permit) from those that will only require

a permittee to provide information updates. The proposed rule also affords us an opportunity to ensure our rules are consistent with recent legal developments. The proposed rule does not suspend or withdraw any of the provisions of our 2000 ownership and control rule, nor does it affect any of our proposed revisions to the 2000 rule published on December 29, 2003. This proposed rule is authorized under the Surface Mining Control and Reclamation Act of 1977, as amended. For a full explanation of the proposed rule, please refer to the rule text and preamble.

The comment period on the proposed rule was originally scheduled to close on March 29, 2005. In response to a telephone request for an extension, we are extending the comment period until April 15, 2005. Written or electronic comments may be submitted in accordance with the instructions provided in **DATES** and **ADDRESSES** above and in Part III of the preamble to the January 26, 2005, proposed rule.

Dated: April 1, 2005.

**Jeffrey D. Jarrett,**

*Director, Office of Surface Mining Reclamation and Enforcement.*

[FR Doc. 05-6858 Filed 4-6-05; 8:45 am]

**BILLING CODE 4310-05-M**

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[CGD09-05-005]

RIN 1625-AA00

#### Safety Zone; Cleveland Triathlon, Cleveland, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to establish an annual safety zone for the Cleveland Triathlon located in the Captain of the Port Cleveland Zone. This safety zone will manage vessel traffic in order to provide for the safety of life and property on navigable waters during the event. Entry of vessels or persons into this zone would be prohibited unless specifically authorized by the Coast Guard Captain of the Port or their on-scene representative.

**DATES:** Comments and related material must reach the Coast Guard on or before May 9, 2005.

**ADDRESSES:** You may mail comments and related material to Coast Guard Marine Safety Office Cleveland (CGD09-05-005), 1055 East 9th Street, Cleveland, OH 44114. Marine Safety Office Cleveland maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at MSO Cleveland between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Allen Turner, U.S. Coast Guard Marine Safety Office Cleveland at 216-937-0128.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD09-05-005), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know your submission reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

##### Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Coast Guard Marine Safety Office Cleveland at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

##### Background and Purpose

This safety zone is necessary to protect the participants in the Cleveland Triathlon, held annually on the third Sunday of July, from hazards associated with swimming in close proximity to recreational watercraft in Cleveland Harbor off of Voinovich Park in Cleveland, OH. The Captain of the Port has determined that this event poses a threat to the participants as well as spectator vessels due to the hazards associated with these events. The Captain of the Port has determined that

swimming in close proximity to watercraft poses a risk to safety and property.

The combination of large numbers of inexperienced recreational boaters, congested waterways, and the use of commercially transited waterways could easily result in serious injuries or fatalities.

Establishing a safety zone by notice and comment rulemaking gives the public an opportunity to comment on the proposed zone and provides better notice than promulgating temporary final rules each year.

#### Discussion of Proposed Rule

The Coast Guard is proposing a safety zone in Cleveland Harbor, Cleveland, Ohio. The Safety would be enforced from 5 a.m. until 11 a.m. each year on the third Sunday in July. The safety zone would encompass all waters in Cleveland Harbor, to include the North Coast Harbor, originating at a line drawn from Pier 32, at position 41°30'36" N, 081°42'56" W, extending to position 41°30'43" N, 081°42'03" W, thence to Buoy 11 (LLNR 4135) at position 41°30'49" N, 081°41'53" W in Cleveland Harbor, thence to the Northeast corner of Municipal Pier at position 41°30'43" N, 081°41'47" W. These coordinates are based upon North American Datum 1983 (NAD 83).

The Coast Guard would notify the public in advance by way of Ninth Coast Guard District Local Notice to Mariners, marine information broadcasts, and for those who request it from Marine Safety Office Cleveland, by facsimile.

#### Regulatory Evaluation

This proposed 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 proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

This determination is based upon the size and location of the safety zone within the waterway. Commercial vessels will not be hindered by the safety zone, as only a portion of the East Basin channel is restricted. Recreational vessels may transit through the safety zone with permission from the COTP

Cleveland or his designated on-scene patrol commander.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the East Basin of Cleveland Harbor.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons: Although the safety zone restricts the movement of vessels through a navigable channel, commercial vessels will be able to transit along the northern edge of the zone and all other recreational vessels will be able to transit the zone with the permission of the COTP Cleveland or his designated on-scene Patrol Commander. Before the effective period, the Coast Guard will issue maritime advisories to users who may be impacted through notification in the **Federal Register**, the Ninth District Coast Guard District Local Notice to Mariners, and through Marine Information Broadcasts and when requested by facsimile.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions

concerning its provisions or options for compliance, please contact Lieutenant Allen Turner, U.S. Coast Guard Marine Safety Office Cleveland, 1055 East 9th Street, Cleveland, OH 44114.

#### Collection of Information

This proposed rule would call 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This proposed rule would 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 proposed 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

The Coast Guard has analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This proposed rule does not have tribal implications under Executive

Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. We invite your comments on how this proposed rule might impact tribal government, even if that impact may not constitute a "tribal implication" under that Order.

### Energy Effects

We have analyzed this proposed 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 proposed 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 made a preliminary determination 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, we believe that this rule should be categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation.

Event participants swimming in the water pose no inherent risk to the surrounding environment, and a safety zone is needed to protect the participants. Under figure 2-1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

### 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 proposes to amend 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 § 165.922 to read as follows:

#### 165.922 Safety Zone; Cleveland Triathlon Swimming Event in the Captain of the Port Cleveland Zone.

(a) *Location.* The following area is a safety zone:

(1) All waters in Cleveland Harbor, to include the North Coast Harbor, originating at a line drawn from Pier 32, at position 41°30'36" N, 081°42'56" W, extending to position 41°30'43" N, 081°42'03" W, thence to Buoy 11 (LLNR 4135) at position 41°30'49" N, 081°41'53" W in Cleveland Harbor, thence to the Northeast corner of Municipal Pier at position 41°30'43" N, 081°41'47" W. These coordinates are based upon North American Datum 1983 (NAD 83).

(b) *Enforcement Period.* This safety zone will be enforced from 5 a.m. (local) until 11 a.m., annually on the third Sunday of July.

(c) *Regulations.* No vessel shall enter the safety zone. Permission to deviate from the above rules must be obtained from the Captain of the Port or the on-scene Coast Guard Patrol Commander via VHF/FM radio, Channel 16 or by telephone at 216-937-0111.

Dated: March 28, 2005.

**Lorne W. Thomas,**

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

[FR Doc. 05-6952 Filed 4-6-05; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

#### 37 CFR Parts 1, 3, and 10

[Docket No.: 2005-P-053]

RIN 0651-AB85

#### Provisions for Persons Granted Limited Recognition To Prosecute Patent Applications and Other Miscellaneous Matters

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The United States Patent and Trademark Office (Office) is proposing changes to the rules of practice concerning persons acting with limited recognition in a patent matter, the filing of the English translation of foreign-language provisional applications, and the submission of evidence ownership when an assignee takes action in a patent matter. The Office is proposing changes to the rules of practice to allow a person acting with limited recognition to be given a power of attorney and authorized to sign amendments and other correspondence respecting patent applications, reexamination proceedings, and other proceedings. A person granted limited recognition is not a registered patent attorney or agent. The Office is also proposing changes to the rules of practice to require that a copy of the English translation of a foreign-language provisional application be filed in the provisional application (rather than in either the provisional application or the nonprovisional application) if a non-provisional application claims the benefit of the provisional application. In addition, the Office is proposing changes to require that a copy of documentary evidence of ownership be recorded in the Office's assignment records when an assignee takes action in a patent matter, and that separate copies of a document be submitted to the Office for recording in the Office's assignment records, each accompanied by a cover sheet, if the document to be recorded includes an interest in, or a transaction involving, both patents and trademarks.

**DATES:** To be ensured of consideration, written comments must be received on or before June 6, 2005. No public hearing will be held.

**ADDRESSES:** Comments should be sent by electronic mail over the Internet addressed to:

*AB85.comments@uspto.gov.* Comments may also be submitted by mail addressed to: Mail Stop Comments-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450; or by facsimile to (703) 273-7744, marked to the attention of Karin Ferriter. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments via the Internet. If comments are submitted by mail, the Office would prefer that the comments be submitted on a DOS formatted 3 1/2-inch disk accompanied by a paper copy.

Comments may also be sent by electronic mail message over the Internet via the Federal eRulemaking Portal. See the Federal eRulemaking