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 an 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.lD, 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 the establishment of a safety zone. 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, 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, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T13–143 to read as follows:

§ 165.T13–143 Safety Zone; Fireworks Display in Stevenson, WA

(a) *Location.* The following area is a safety zone: all waters within an area whose boundary is defined by connecting the following points: starting from the shore at 45°41′26.70″ N/121°53′36.80″ W; thence continuing to 45°41′24.62″ N/121°53′40.85″ W; thence continuing to 45°41′18.10″ N/121°53′27.86″ W; thence continuing to 45°41′25.32″ N/121°53′19.42″ W; thence continuing to 45°41′30.32″ N/121°53′27.14″ W; thence continuing back to the starting point at 45°41′26.70″ N/121°53′36.80″ W.

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may enter or remain in the safety zone created by paragraph (a) of this section without the permission of the Captain of the Port, Sector Portland or his designated representative.

(c) *Enforcement Period.* The safety zone created in paragraph (a) of this section will be in effect from 8 p.m. until 11 p.m. on July 4, 2010.

Dated: May 14, 2010.

F.G. Myer,

Captain, U.S. Coast Guard, Captain of the Port, Portland.

[FR Doc. 2010–15274 Filed 6–23–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0214]

RIN 1625–AA00

Safety Zone; North Jetty, Named the Barview Jetty, Tillamook Bay, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone surrounding the north jetty, named the Barview Jetty near Tillamook Bay, Oregon. The safety zone is necessary to help ensure the safety of work crews and the maritime public while the jetty is being repaired and will do so by prohibiting all persons and vessels from entering or remaining within 250 feet of the jetty unless specifically authorized by the Captain of the Port or his designated representative.

DATES: *Effective Date:* This rule is effective in the CFR from June 24, 2010 until 11:59 p.m. on September 30, 2010. This rule is effective with actual notice for purposes of enforcement beginning 12:01 a.m. on June 15, 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–2010–0214 and are available online by going to *http://www.regulations.gov,* inserting USCG–2010–0214 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail MST1 Jaime Sayers, Waterways Management Branch, Coast Guard Sector Portland; telephone 503–240–9319, e-mail *Jaime.A.Sayers@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

On April 28, 2010, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; North Jetty, Named the Barview Jetty, Tillamook Bay, OR" in the **Federal Register** (75 FR 22336). We received one comment on the proposed rule. There were no requests for a public meeting and none was held.

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.** Due to the need for immediate action, the restriction of vessel traffic is necessary to protect life, property and the environment; therefore, a 30-day notice is impracticable. Delaying the effective date would be contrary to the safety zone's intended objectives of protecting persons and vessels involved in the event, and enhancing public and maritime safety.

Basis and Purpose

The north jetty, named the Barview Jetty, near Tillamook Bay, Oregon has deteriorated to the point that the United States Army Corps of Engineers has contracted Kiewit Corporation to repair the jetty. The repairs will begin on June 15, 2010 and will involve the use of a track mounted Manitowoc 18,000 lb crane with as much as 200 feet of boom. The crane will be used to move large granite boulders weighing approximately 20 to 50 tons each by lifting them up, circling them out over the waterway on either side of the north jetty, and placing them into the jetty.

Due to the inherent dangers associated with such operations, the safety zone created by this rule is necessary to help ensure the safety of work crews and the maritime public while the jetty is being repaired. It will do so by prohibiting all persons and vessels from entering or remaining in the zone when work is being conducted on the jetty unless specifically authorized by the Captain of the Port or his designated representative.

Discussion of Comments and Changes

The Coast Guard received one comment on this safety zone regarding the ability of surfers to use the "rip adjacent to the jetty to get out to the breaking waves." The Coast Guard agrees the temporary safety zone will restrict access to the area, and we have made a change to the rule in light of this comment by adding language that the safety zone will be enforced when work is being conducted on the jetty, between the hours of 5:30 a.m. and 7:30 p.m. Monday through Saturday, unless otherwise required. The purpose of the safety zone is to protect the public from the dangers associated with the construction project and due to safety concerns the area may be closed to public access by the company working on the jetty. The public will be notified of the enforcement and suspension of enforcement of the safety zone by Broadcast Notice to Mariners in accordance with the procedures outlined in this regulation.

Discussion of Rule

The safety zone created by this rule will cover all waters surrounding the Barview jetty within 250 feet starting at latitude 45°34′12″ N, longitude 123°57′31″ W; thence heading offshore to latitude 45°34′12″ N, longitude 123°57′58″ W; thence across the tip of the jetty to latitude 45°34′17.5″ N, longitude 123°57′58″ W; thence back inland to latitude 45°34′15″ N, longitude 123°57′31″ W. All persons and vessels will be prohibited from entering or remaining in the zone unless specifically authorized by the Captain of the Port or his designated representative.

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 restricts access to the safety zone, the effect of the rule will not be significant because: (i) The safety zone will only be in effect during the 3½ months repairs are being made to the north jetty, named the Barview Jetty; (ii) the zone is of limited size; and (iii) maritime traffic will be able to transit the zone with the permission of the Captain of the Port or his designated representative.

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 may affect the following entities some of which may be small entities: The owners or operators of vessels wishing to transit the safety zone established by this rule. The rule will not have a significant economic impact on a substantial number of small entities, however, because the safety zone will only be in effect during the 3½ months repairs are being made to the north jetty, named the Barview Jetty, and maritime traffic will be able to transit the zone with the permission of

the Captain of the Port or his designated representative.

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 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 an 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.lD, 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 the establishment of a safety zone. 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, 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, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T13–137 to read as follows:

§ 165.T13–137 Safety Zone; North Jetty, Named the Barview Jetty, Tillamook Bay, OR.

(a) *Location.* The following area is a safety zone: All waters within a 250 feet radius of the north jetty, named the Barview Jetty, near Tillamook Bay, Oregon starting at latitude 45°34′12″ N, longitude 123°57′31″ W; thence heading offshore to latitude 45°34′12″ N, longitude 123°57′58″ W; thence across the tip of the jetty to latitude 45°34′17.5″ N, longitude 123°57′58″ W; thence back inland to latitude 45° 34′ 15″ N, longitude 123°57′31″ W.

(b) *Regulations.* In accordance with the general regulations in § 165.23, no

person may enter or remain in the safety zone created in paragraph (a) of this section or bring, cause to be brought, or allow to remain in the safety zone created in paragraph (a) of this section any vehicle, vessel or object unless authorized by the Captain of the Port or his designated representative.

(c) *Enforcement.* The safety zone will be enforced daily June 15, 2010 through September 31, 2010 between the hours of 5:30 a.m. and 7:30 p.m.

(1) The Captain of the Port, Sector Portland, will notify the public of the enforcement and suspension of enforcement of the safety zone established by this section via any means that will provide as much notice as possible to the public. These means might include some or all of those listed in 33 CFR 165.7(a). The primary method of notification, however, will be through Broadcast Notice to Mariners and local Notice to Mariners.

(d) *Effective Period.* The safety zone created in paragraph (a) of this section will be in effect from 12:01 a.m. June 15, 2010 until 11:59 p.m. September 30, 2010 while work is being conducted on the jetty.

Dated: June 11, 2010.

F.G. Myer,

Captain, U.S. Coast Guard, Captain of the Port, Portland.

[FR Doc. 2010–15273 Filed 6–23–10; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 2 and 7

[Docket No. PTO–T–2010–0014]

RIN 0651–AC39

Trademark Technical and Conforming Amendments

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Interim final rule with request for comments.

SUMMARY: The United States Patent and Trademark Office ("USPTO") is amending the Rules of Practice in Trademark Cases to implement the Trademark Technical and Conforming Amendment Act of 2010. The rule changes harmonize the framework for submitting trademark registration maintenance filings to the USPTO by permitting holders of international registrations with an extension of protection to the United States under the Madrid Protocol ("Madrid Protocol registrants") to file Affidavits or Declarations of Use or Excusable Nonuse at intervals identical to those for nationally issued registrations. The changes additionally allow all trademark owners to cure deficiencies in their maintenance filings, including when the affidavit or declaration is not filed in the name of the owner of the registration.

DATES: This rule is effective on June 24, 2010. Comments must be received by August 23, 2010 to ensure consideration.

ADDRESSES: The Office prefers that comments be submitted via electronic mail message to *TMFRNotices@uspto.gov.* Written comments may also be submitted by mail to Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313–1451, attention Cynthia Lynch; by hand-delivery to the Trademark Assistance Center, Concourse Level, James Madison Building-East Wing, 600 Dulany Street, Alexandria, Virginia, attention Cynthia Lynch; or by electronic mail message via the Federal eRulemaking Portal. See the Federal eRulemaking Portal Web site (*http://www.regulations.gov*) for additional instructions on providing comments via the Federal eRulemaking Portal. The comments will be available for public inspection on the Office's Web site at *http://www.uspto.gov,* and will also be available at the Trademark Legal Policy Office, Madison East, Fourth Floor, 600 Dulany Street, Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Cynthia C. Lynch, Office of the Deputy Commissioner for Trademark Examination Policy, by telephone at (571) 272–8742.

SUPPLEMENTARY INFORMATION:

Statutory Background

The Trademark Technical and Conforming Amendment Act of 2010 became effective on March 17, 2010. Public Law 111–146, 124 Stat. 66 (2010). In addition to making small technical and conforming corrections in Sections 7, 15, and 21 of the Lanham Act, 15 U.S.C. 1057, 1065, and 1071, the legislation makes other more noteworthy changes to Sections 8 and 71, 15 U.S.C. 1058 and 1141k, regarding filing Affidavits or Declarations of Use or Excusable Nonuse to maintain a registration.

Specifically, the legislation gives Madrid Protocol registrants the benefit of six-month grace periods immediately following the statutory time periods for filing their trademark registration maintenance documents under Section 71, 15 U.S.C. 1141k. Previously, no grace period existed at the end of the six-year period following the date of registration in the U.S., and only a three-month grace period existed following the expiration of each successive 10-year period following registration. The new grace periods match those already provided to all other trademark owners for submitting maintenance filings to the USPTO.

In addition, the legislation allows all trademark owners to cure deficiencies in their post-registration maintenance filings outside of the statutory filing period upon payment of a deficiency surcharge, specifically including when affidavits or declarations are not filed in the name of the owner of the registration. Previously, the statute did not provide Madrid Protocol registrants with the opportunity to correct deficiencies in their maintenance filings and allowed all other trademark owners to correct deficiencies outside of the statutory filing period upon payment of the surcharge, except when an affidavit or declaration was not filed in the name of the owner.

The interim final rule revises 37 CFR parts 2 and 7 to implement the Trademark Technical and Conforming Amendment Act of 2010, as referenced above. It applies to all maintenance filings pending with the USPTO as of March 17, 2010, the effective date of the legislation.

References to "the Act," "the Lanham Act," "the Trademark Act," or "the statute" refer to the Trademark Act of 1946, 15 U.S.C. 1051 *et seq.,* as amended.

Rule Making Considerations

The changes made in this interim final rule constitute interpretative rules or rules of agency practice and procedure and are not subject to the requirement for the publication of prior notice of proposed rule making. *See* The Administrative Procedure Act ("APA"), 5 U.S.C. 553(b)(3)(A). The rule changes relate solely to the procedures for maintaining a Federal trademark registration, and merely implement the Trademark Technical and Conforming Amendment Act of 2010, so that the Rules of Practice in Trademark Cases are consistent with the statutory revisions. Thus, they qualify as interpretative rules or rules of agency practice and procedure under 5 U.S.C. 553(b)(A), and prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553(b)(A) (or any other law). *See Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37, 87 U.S.P.Q.2d 1705, 1710 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice