

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 proposed rule under Department of Homeland Security Management Directive 023-01 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 made a determination that 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 amending a security zone regulation by removing the reference to shore area in security zones for moored cruise ships. 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. 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, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

- 2. In § 165.1108, reinstate temporarily suspended paragraph (b)(2), and then revise paragraphs (b) and (c) to read as follows:

#### § 165.1108 Security Zones; Moored Cruise Ships, Port of San Diego, California.

\* \* \* \* \*

(b) *Location*. The following areas are security zones: All navigable waters, extending from the surface to the sea floor, within a 100-yard radius around any cruise ship that is located within the San Diego port area landward of the sea buoys bounding the Port of San Diego.

(c) *Regulations*. Under regulations in 33 CFR part 165, subpart D, a person or vessel may not enter into or remain in the security zones created by this section unless authorized by the Coast Guard Captain of the Port, San Diego (COTP) or a COTP designated representative. Persons desiring to transit these security zones may contact the COTP at telephone number (619) 278-7033 or on VHF-FM channel 16 (156.8 MHz) to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

\* \* \* \* \*

#### § 165.T11-386 [Removed]

- 3. Remove § 165.T11-386.

Dated: March 7, 2011.

**T.H. Farris,**  
Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2011-6579 Filed 3-16-11; 4:15 pm]

**BILLING CODE 9110-04-P**

## POSTAL SERVICE

### 39 CFR Part 965

### Rules of Practice in Proceedings Relative to Mail Disputes

**AGENCY:** Postal Service.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service is amending the rules of practice of the Office of the Judicial Officer to clarify that parties may submit arguments as well as sworn statements in support of their claims to disputed mail. In addition, the rules are being amended to clarify some provisions and update obsolete language.

**DATES:** *Effective Date:* March 30, 2011.

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

#### SUPPLEMENTARY INFORMATION:

*Supporting statements.* The rules governing proceedings relative to mail disputes are found in 39 CFR part 965. Formerly, § 965.5 provided that each party shall file a sworn statement of the facts supporting its claim to the disputed mail together with a copy of each document on which it relies in making such claim. The revised rule clarifies that the submission also may include argument as to why the factual statement and supporting documents should result in that party's claim to the disputed mail being accepted. The change concerning inclusion of argument in the parties' mail dispute submissions is intended to reflect longstanding practice to that effect. Clarifying this matter should avoid confusion from unclear wording that could, and in one recent case did lead a disputant to believe that only factual presentation and not argument is permitted by the rules. Corresponding changes are made to section 965.6.

*Editorial changes.* Several other changes are made to various sections of the rules for the purpose of clarifying the rules, updating the rules, or conforming the rules to current practice. None of the changes affects the substantive rights of disputants. Changes in sections 965.1, 965.2, 965.3, 965.4(b)(2), 965.8(a), and 965.14 reflect current practice and eliminate reference to obsolete language. Section 965.9(c) is eliminated as unnecessary.

*Effective date.* These revisions are changes in agency rules of practice before the Judicial Officer and do not substantially affect any rights or obligations of private parties. Therefore, it is appropriate for their adoption by the Postal Service to become effective at an early date; and these revised rules

will govern proceedings docketed on or after March 30, 2011.

#### List of Subjects in 39 CFR Part 965

Administrative practice and procedure, Mail disputes, Postal Service.

Accordingly, the Postal Service adopts amendments to 39 CFR part 965 as set forth below.

### PART 965—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO MAIL DISPUTES

■ 1. The authority citation for part 965 continues to read as follows:

*Authority:* 39 U.S.C. 204, 401.

■ 2. Section 965.1 is revised to read as follows:

#### § 965.1 Authority for rules.

These rules of practice are issued by the Judicial Officer of the U.S. Postal Service pursuant to authority delegated by the Postmaster General.

■ 3. Section 965.2 is revised to read as follows:

#### § 965.2 Scope of rules.

The rules in this part shall be applicable to mail dispute cases forwarded to the Judicial Officer pursuant to Postal Operations Manual section 616.21.

■ 4. Section 965.3 is revised to read as follows:

#### § 965.3 Notice to parties.

Upon receipt of a mail dispute case, the Recorder, Office of the Judicial Officer, United States Postal Service, 2101 Wilson Boulevard, Suite 600, Arlington, VA 22201–3078, will send a notice of docketing and submission due date to the parties together with a copy of these rules.

■ 5. Section 965.4 is amended by revising paragraph (b)(2) to read as follows:

#### § 965.4 Presiding officers.

\* \* \* \* \*

(b) \* \* \*

(2) Render an initial decision, if the presiding officer is not the Judicial Officer; or if the presiding officer is the Judicial Officer, issue a tentative or a final decision or order.

■ 6. Section 965.5 is revised to read as follows:

#### § 965.5 Initial submissions by parties.

Within 15 days after receipt of the Recorder's notice, each party shall file with the Recorder a sworn statement of the facts supporting its claim to receipt

of the mail together with a copy of each document on which it relies in making such claim, and any arguments supporting its claim.

■ 7. Section 965.6 is revised to read as follows:

#### § 965.6 Comments by parties.

Within 10 days of receipt of the other party's initial submission under § 965.5, each party may file with the Recorder an additional statement or rebuttal argument setting forth in detail its disagreements, if any, with its opponent's initial submission. Such rebuttal may include any additional documents relevant to the dispute.

■ 8. Section 965.8 is amended by revising paragraph (a) to read as follows:

#### § 965.8 Hearings.

(a) Generally, mail dispute cases are resolved based on written submissions. However, in the discretion of the presiding officer an oral hearing may be conducted where in the opinion of the presiding officer, the case cannot be resolved by a review of the documentary evidence.

\* \* \* \* \*

#### § 965.9 [Amended]

■ 9. Section 965.9 is amended by removing paragraph (c).

■ 10. Section 965.12 is revised to read as follows:

#### § 965.12 Appeal.

Within 10 days after receipt by the parties of the initial or tentative decision, either party may file an appeal to the Judicial Officer. The Judicial Officer, or by delegation the Associate Judicial Officer, in his or her sole discretion, also may review the initial or tentative decision on his or her own initiative. If an appeal is denied, the initial or tentative decision becomes the final agency decision upon the issuance of such denial. If an appeal is not filed and the Judicial Officer, or by delegation the Associate Judicial Officer does not review the initial or tentative decision on his or her own initiative, a final order will be issued. The Judicial Officer's decision on appeal or his or her final order is the final agency decision with no further agency review or appeal rights.

■ 11. Section 965.14 is revised to read as follows:

#### § 965.14 Public information.

The Librarian of the Postal Service maintains for public inspection in the Library copies of all initial, tentative,

and final agency decisions and orders. Copies of decisions also are available on the Judicial Officer's section of the official Web site of the U.S. Postal Service. The Recorder maintains the complete official record of every proceeding.

Stanley F. Mires,

*Chief Counsel, Legislative.*

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 81

[EPA–R09–OAR–2008–0306; FRL–9284–3]

#### Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of California; PM–10; Technical Amendment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical amendment.

**SUMMARY:** EPA is making a technical amendment to the Code of Federal Regulations to reflect the final actions published by the Agency on November 12, 2008 in connection with the designations of the San Joaquin Valley Air Basin and East Kern areas for particulate matter of ten microns or less (PM–10).

**DATES:** This technical amendment is effective on March 21, 2011.

**FOR FURTHER INFORMATION CONTACT:** Doris Lo, EPA Region IX, (415) 972–3959, [lo.doris@epa.gov](mailto:lo.doris@epa.gov).

**SUPPLEMENTARY INFORMATION:** On November 12, 2008, among other actions, EPA approved the State of California's request under the Clean Air Act (CAA or the Act) to revise the designation for the San Joaquin Valley serious nonattainment area for particulate matter of ten microns or less (PM–10) by splitting the area into two separate nonattainment areas: The San Joaquin Valley Air Basin (SJVAB) serious nonattainment area and the East Kern serious nonattainment area. See 73 FR 66759 (November 12, 2008). In the November 12, 2008 final rule, EPA also redesignated the SJVAB to attainment for the PM–10 national ambient air quality standard (NAAQS).

In relevant part, the amendatory language on page 66773 of the November 12, 2008 final rule states: “In § 81.305 the “California—PM–10” table is amended under Fresno, Kern, Kings,