

The Berkley Bridge (I-264) at mile 0.4, across the Elizabeth River, Eastern Branch, in Norfolk, VA, has a vertical clearance in the closed position of 48 feet above mean high water.

Under this temporary deviation, the drawbridge will be maintained in the closed to navigation position on four separate weekends beginning at 8 p.m. on Fridays until and including 4:30 a.m. on Mondays from April 23-26, 2010; April 30-May 3, 2010; May 14-17, 2010; and from June 4-7, 2010. In addition, if severe or inclement weather occurs, the alternate closure dates will be rescheduled to May 7-10, 2010 and/or June 18-21, 2010. During these closure periods, vessel openings of the draw spans along with the removal of barges in the waterway will be provided if at least two hours advance notice is given to the bridge operator at (757) 494-2490. No marine events are scheduled during these time periods and the waterway will still allow for the passage of vessels of heights less than 48 feet.

Smaller vessels that can pass under the bridge without a bridge opening may do so at most times. There are no alternate routes for vessels transiting this section of the Eastern Branch of the Elizabeth River. The bridge can be opened for emergencies but may be delayed by two hours.

The waterway users are large commercial vessels, tugs, barges, and smaller leisure craft. The Berkley Bridge opens rarely on weekends for larger commercial vessels, approximately 2-3 times/weekend. The Coast Guard has coordinated the restrictions with the commercial and recreational waterway users. Additionally, the Coast Guard will inform unexpected users of the waterway through our local and broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 1, 2010.

**Patrick B. Trapp,**

*Captain, United States Coast Guard, Acting Commander, Fifth Coast Guard District.*

[FR Doc. 2010-8476 Filed 4-13-10; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0809]

RIN 1625-AA00

#### Safety Zone; Desert Storm, Lake Havasu, AZ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone within the Thompson Bay region of the navigable waters of the Colorado River in Lake Havasu, Lake Havasu City, Arizona in support of the Desert Storm Exhibition Run. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative.

**DATES:** This rule is effective from 8 a.m. on April 23, 2010 through 5:30 p.m. on April 25, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2009-0809 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0809 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 Petty Officer Shane Jackson, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619-278-7267, e-mail [Shane.E.Jackson@uscg.mil](mailto:Shane.E.Jackson@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, as publishing a notice of proposed rulemaking (NPRM) with respect to this rule would be impracticable, because immediate action is necessary to ensure the safety of the crew, spectators, and other vessels and users of the waterway.

#### Background and Purpose

The Lake Racer LLC is sponsoring the Desert Storm Charity Poker Run and Exhibition Run, which is to be held on Thompson Bay region of the Colorado River in Lake Havasu City, Arizona. A temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and other users of the waterway. This event involves powerboats participating in an exhibition run on a closed course. The size of the boats varies from 21 to 55 feet. Approximately 150 to 200 boats will participate in this event. The sponsor will provide 2 rescue boats and 20 safety patrol boats, along with EMT and Rescue divers, for the safety of this event.

#### Discussion of Rule

The Coast Guard is establishing a safety zone that will be enforced from 8:00 a.m. on April 23, 2010 to 5:30 p.m. on April 25, 2010. This safety zone is necessary to provide for the safety of the crews, spectators, and participants of the regatta and to protect other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port, or his designated representative. This temporary safety zone extends to the area encompassed by the following coordinates:

34°27.84' N, 114°20.64' W;  
34°27.76' N, 114°20.80' W;  
34°27.58' N, 114°20.81' W;  
34°26.11' N, 114°19.17' W; and  
34°26.42' N, 114°18.90' W.

The Coast Guard may be assisted by the other federal, state, or local agencies, including the Coast Guard Auxiliary. Vessel or persons violating this section will be subject to both criminal and civil penalties.

#### 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 determination is based on the duration and location of the safety zone. The safety zone will only be in effect a short time. Vessels will be allowed to transit through the designated safety zone during the specified times if they are authorized to do so from 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 will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the lower Colorado River from 8 a.m. on April 23, 2010 through to 5:30 p.m. on April 25, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone will apply to the entire width of the river, traffic will be allowed to pass through the zone with the permission of the Coast Guard patrol commander. There will be escort vessels for vessel traffic to pass through the zone once authorized to do so by the Captain of the Port or his designated representative. Before the effective period, the Coast Guard will publish a local notice to mariners (LNM) and will issue broadcast notice to mariners (BNM) alerts via Marine Channel 16 VHF before the safety zone is enforced.

### **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 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 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 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. This rule involves establishing a safety zone for a marine event. 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.T11-297 to read as follows:

#### § 165.T11-297 Safety zone; Desert Storm, Lake Havasu, AZ

(a) *Location.* The location of the safety zone includes all waters of Thompson Bay of the Colorado River and land adjacent to those waters encompassed by the following coordinates

34°27.84' N, 114°20.64' W;  
34°27.76' N, 114°20.80' W;  
34°27.58' N, 114°20.81' W;  
34°26.11' N, 114°19.17' W; and  
34°26.42' N, 114°18.90' W.

(b) *Enforcement period.* This rule will be enforced from 8 a.m. on April 23, 2010, to 5:30 p.m. on April 25, 2010. If the need for the safety zone ends before the scheduled termination times, the Captain of the Port will cease enforcement of this safety zone.

(c) *Definitions.* The following definition applies to this section: *designated representative*, means any commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated on-scene representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander (PATCOM). The PATCOM may be contacted on VHF-FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

Dated: March 27, 2010.

**T.H. Farris,**

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0213]

RIN 1625-AA00

**Subject: Safety Zone; Sea World Summer Nights Fireworks, Mission Bay, San Diego, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone on the navigable waters of Mission Bay in support of the Sea World Summer Nights Fireworks. This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless

authorized by the Captain of the Port, or his designated representative.

**DATES:** This rule is effective from March 27, 2010 through September 6, 2010.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-0213 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0213 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 Petty Officer Corey McDonald, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619-278-7262, e-mail [Corey.R.McDonald@uscg.mil](mailto:Corey.R.McDonald@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 immediate action is necessary to ensure the safety of vessels, spectators, participants, and others in the vicinity of the marine event on the dates and times this rule will be in effect and delay would be contrary to the public interest.

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** because delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the public's safety.

#### Background and Purpose

Sea World is sponsoring the Sea World Summer Nights Fireworks, which