

marker 296.18) and mile marker 296.7 (aerial pipeline located approximately 0.51 miles north east of Romeo Road Bridge).

(4) *Compliance.* All persons and vessels must comply with this section and any additional instructions or orders of the Ninth Coast Guard District Commander, or his designated representatives.

(5) *Waiver.* For any vessel, the Ninth Coast Guard District Commander, or his designated representatives, may waive any of the requirements of this section, upon finding that operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purposes of vessel and mariner safety.

Dated: August 24, 2009.

**Peter V. Neffenger,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

[FR Doc. E9-21200 Filed 8-28-09; 4:15 pm]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2009-0194]

RIN 1625-AA00

#### Safety Zone; IJSBA World Finals, Lower Colorado River, Lake Havasu, AZ

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of Lake Havasu on the lower Colorado River in Arizona in support of the International Jet Sports Boating Association (IJSBA) World Finals. 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 will be prohibited from entering into, transiting through, or anchoring within this temporary safety zone unless authorized by the Captain of the Port San Diego or his designated representative.

**DATES:** This rule is effective from October 6, 2009 through October 19, 2009.

**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-2009-0194 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0194 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 temporary rule, call or e-mail Petty Officer Kristen Beer, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619-278-7262, e-mail [Kristen.A.Beer@uscg.mil](mailto:Kristen.A.Beer@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 June 22, 2009, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; IJSBA World Finals; Lower Colorado River, Lake Havasu, AZ in the **Federal Register** (74 FR 29447). We received no comments on the proposed rule. No public meeting was requested, and none was held.

##### Background and Purpose

The International Jet Sports Boating Association (IJSBA) is sponsoring the IJSBA World Finals. The event will consist of 300 to 750 personal watercrafts racing in a circular course. The race will be broken down into heats of one to 20. The sponsor will provide four course marshals and rescue vessels, as well as four perimeter safety boats for the duration of this event. 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.

##### Discussion of Comments and Changes

There were no comments submitted and no changes were made to the regulation.

##### 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size and location of the safety zone. Commercial vessels will not be hindered by the safety zone. Recreational vessels will not be allowed to transit through the designated safety zone during the specified times unless authorized to do so by 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 at Lake Havasu from October 6, 2009 through October 19, 2009.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic can pass safely around the zone. Before the effective period, the Coast Guard will publish a local notice to mariners (LNM).

##### 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 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.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 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 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, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a new temporary § 165.T11-182 to read as follows:

#### § 165.T11-182 Safety Zone; IJSBA World Finals; Lower Colorado River, Lake Havasu, AZ.

(a) *Location.* The following area is a safety zone: All waters of Lake Havasu, from surface to bottom, encompassed by lines connecting the following points:

Beginning at 34°28.49' N, 114°21.33' W; Thence to 34°28.55' N, 114°21.56' W; Thence to 34°28.43' N, 114°21.81' W; Thence to 34°28.32' N, 114°21.71' W; Thence along the shoreline returning to 34°28.49' N, 114°21.33' W.

These coordinates are based upon NAD 83.

(b) *Effective period.* This section is effective and will be enforced from October 6, 2009 through October 19, 2009. If the International Jet Sports Boating Association World Finals concludes prior to the scheduled termination of the effective period, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *Designated representative*, means any Commissioned, Warrant, or Petty Officers of the Coast Guard or Coast Guard Auxiliary, and local, State, and Federal law enforcement officers who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Under the general regulations in § 165.23, entry into,

transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port San Diego or his designated representative.

(2) Mariners desiring to enter or operate in 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 must comply with the instructions of the Coast Guard Captain of the Port or his 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 must proceed as directed.

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

Dated: July 30, 2009.

**DL LeBlanc,**

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

[FR Doc. E9-21023 Filed 9-1-09; 8:45 am]

**BILLING CODE 4910-15-P**

## POSTAL SERVICE

### 39 CFR Part 111

#### First-Class Mail Incentive Program

**AGENCY:** Postal Service™.

**ACTION:** Final rule.

**SUMMARY:** The Postal Service is revising *Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM®)*, to add section 709.3 which introduces new standards for a special volume incentive program for mailers of commercial (automation and/or Presort) First-Class Mail® cards, letters and/or flats with mail volume exceeding their individual USPS®-determined threshold levels. The program period will be from October 1, 2009 through December 31, 2009.

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

**FOR FURTHER INFORMATION CONTACT:** Nii-Kwashie Aryeetey at 202-268-7442 or Kevin Gunther at 202-268-7208.

**SUPPLEMENTARY INFORMATION:** The Postal Service is implementing a volume incentive program for qualified mailers of commercial (automation and/or Presort) First-Class Mail cards, letters and/or flats, for volume mailed during the program period, above their USPS-determined threshold level.

To participate, mailers must be the permit holder (i.e., owner) of a permit imprint advance deposit account(s) or

the owner of qualifying mail volume entered through the permit imprint advance deposit account of a mail service provider. Qualifying mail owners must be able to demonstrate volume of at least five-hundred thousand (500,000) commercial First-Class Mail cards, letters and/or flats pieces within the period of October 1, 2007 to December 31, 2007 and five-hundred thousand (500,000) commercial First-Class Mail cards, letters and/or flats pieces within the period of October 1, 2008 to December 31, 2008, for a permit imprint advance deposit account(s), precanceled stamp permit(s), postage meter permit(s), or by a combination of these methods. Applicants may also qualify for the program with volume mailed through an account(s) owned by a mail service provider, when adequate documentation is provided that specifies the applicant is the owner of the mail. Those mail owners eligible to participate in the program will be notified of their eligibility, in writing, on or before October 15, 2009. Mail owners wishing to participate in the program, who believe they meet the eligibility standards under DMM 709.3.2 and were not notified by letter, may request a review of their eligibility by contacting the USPS at [firstclassmailincentive@usps.gov](mailto:firstclassmailincentive@usps.gov).

As part of the application process, participating mail owners will be required to provide historical data demonstrating their commercial First-Class Mail cards, letters and/or flats volumes mailed within the periods of October 1, 2007 through December 31, 2007, October 1, 2008 through December 31, 2008, September 2008, and January 2009.

Participating mail owners demonstrating commercial First-Class Mail cards, letters or flats volume above their established threshold level will receive a credit following the close of the program period. Thresholds will be calculated independently for each applicant, by comparing the volume of commercial First-Class Mail cards, letters and/or flats mailed within the period from October 1, 2007 through December 31, 2007 to the volume mailed within the period of October 1, 2008 through December 31, 2008. The change in recorded volume between these two periods will represent the applicant's volume trend. Trends that show growth for the period of October 1, 2008 to December 31, 2008, versus that shown in the same period of the prior year, will appear as a ratio above 1.0 (expressed here in a decimal format). Trends that show a volume decline for the period of October 1, 2008 to

December 31, 2008 will appear as a ratio below 1.0. The applicable ratio will then be applied to the volume of commercial First-Class Mail cards, letters and flats mailed within the period of October 1, 2008 to December 31, 2008. This result represents the USPS-determined threshold level for an individual applicant.

Mail owners (applicants) are eligible to participate in the program with qualifying volume prepared by a mail service provider when entered through a permit owned by the applicant. Mail volume through a mail service provider's permit, may also qualify for the program, but only if adequate documentation identifies the mail as being prepared on behalf of the applicant and demonstrates the applicant's prior mailing activity. Mail service providers are not eligible to participate in the First-Class Mail Incentive program.

Approved program participants, demonstrating an increase in their total commercial First-Class Mail cards, letters and/or flats volume above their approved threshold level will qualify for a credit to a designated permit imprint advance account, Centralized Account Payment System (CAPS) account or paid through another approved method. The total postage attributable to commercial First-Class Mail cards, letters and flats within the program period will be identified for each participant and divided by the total number of recorded pieces, to generate the average price per piece. Participants receive a credit in the amount of 20 percent of the average price per piece for the total number of mailpieces of the incremental volume above their approved threshold level as recorded during the program period.

The First-Class Mail Incentive program encourages mailers to generate new mail volume. As a deterrent to mailers shifting previously planned volume into the program to obtain incentive credits, the mailing activity of participating mail owners will be monitored in the calendar months prior to and following the end of the program as follows:

- The participant's previously determined volume trend will be applied to their volume of commercial First-Class Mail cards, letters and flats mailed within the month of September 2008 and January 2009, to determine the participant's September 2009 and January 2010 expected volume.
- Each participant's *actual* September 2009 and January 2010 volume will then be compared to their respective September 2009 and January 2010 expected volume.