

Louisiana Department of Transportation and Development.

This deviation is effective from November 25, 2009 until December 28, 2009.

The LA 75 bridge is a pontoon bridge, there is no access for vessels to pass through the bridge while it is in the closed-to-navigation position. Vessels have access to two different alternate routes. One route is the Atchafalaya River and, the other accessible route is the Gulf Intracoastal Waterway.

The LA 77 bridge is a swing span bridge and has a vertical clearance of 2.5 feet above mean high water, elevation 9.0 feet mean sea level and 11.5 feet above mean low water, elevation 0.0 mean sea level in the closed-to-navigation position. Vessels have access to the Gulf Intracoastal Waterway as an alternate route.

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: October 14, 2009.

**David M. Frank,**

*Bridge Administrator.*

[FR Doc. E9-26988 Filed 11-9-09; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-0085]

RIN 1625-AA11

#### Regulated Navigation Area; East Rockaway Inlet to Atlantic Beach Bridge, Nassau County, Long Island, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is establishing a regulated navigation area extending from the entrance of East Rockaway Inlet to the Atlantic Beach Bridge, Nassau County, New York. This regulated navigation area will affect commercial vessels carrying petroleum products in excess of 250 barrels by requiring them to plan all transits of the regulated navigation area so that they maintain a minimum of two feet under keel clearance at all times. Additionally, they may not transit the regulated navigation area if a small craft advisory, or more severe weather warning, has been issued, unless authorized by the

Captain of the Port Long Island Sound. This action is necessary because significant shoaling in this area has reduced the depths of the navigable channel and has increased the risk of vessels grounding in the channel and the potential for a significant oil spill.

**DATES:** This rule is effective December 10, 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-2008-0085 and are available online by going to <http://www.regulations.gov>, inserting USCG-2008-0085 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: Chief Petty Officer Christie Dixon, Prevention Department, USCG Sector Long Island Sound at 203-468-4459, e-mail: [christie.m.dixon@uscg.mil](mailto:christie.m.dixon@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 15, 2009, we published a notice of proposed rulemaking (NPRM) entitled "Regulated Navigation Area; East Rockaway Inlet to Atlantic Beach Bridge, Nassau County, Long Island, NY" in the *Federal Register* (74 FR 28199). We did not receive any comments or requests for meetings on the proposed rule.

##### Background and Purpose

East Rockaway Inlet is on the South Shore of Long Island, in Nassau County. Water depths in the federal navigation channel change constantly and have been reduced in some areas to as low as five feet at times. This channel was last dredged by the Army Corps of Engineers during the winter of 2008-2009 and is on a 2 year cycle for dredge work. The channel buoys require regular relocation to mark best water as the channel shoals in between dredge cycles. East Rockaway Inlet is frequented by small coastal tankers and tugs towing oil barges supplying two facilities: Sprague Energy Oceanside, located in Oceanside, Long Island, New York, a supplier of home heating oil for Long Island, and

Keyspan E.F. Barrett, an electrical power generation facility, located in Island Park, Long Island, New York. For vessels carrying 250 or more barrels of petroleum, approximately 60 transits occur in that area each year. The shoaling in this area has reduced depths to a point where there is an increased risk of vessels grounding and the potential for a significant oil spill. Similar shoaling led to the grounding in late 2003 of a small coastal tanker carrying home heating oil.

This rule will provide for the safety of vessel traffic and protection of the maritime environment in and around East Rockaway Inlet, Long Island, New York.

#### Discussion of Comments and Changes

There were not any comments or changes to the regulatory text.

#### 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.

#### 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 carrying petroleum products intending to transit or anchor in those portions of the East Rockaway Inlet covered by the regulated navigation area; and Sprague Energy Oceanside and Keyspan E.S. Barrett which receive the vessels affected by this regulated

navigation area. Recreational and other maritime traffic is not otherwise restricted or prohibited from transiting this area. In the NPRM the Coast Guard invited small entities who thought their business would be affected by this rule to submit a comment explaining why the entity qualifies and how and to what degree this rule would economically affect it. No comments were received and no changes were made to the regulation.

#### 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 M16475.1D, 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 which involves the establishment of a regulated navigation area was published as a Notice of Proposed Rulemaking with an invitation to comment on June 15, 2009. No comments were received that would affect the assessment of environmental impacts from this action. 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; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.156 to read as follows:

**§ 165.156 Regulated Navigation Area, East Rockaway Inlet to Atlantic Beach Bridge, Nassau County, Long Island, New York.**

(a) *Location.* The following area is a Regulated Navigation Area: All waters of East Rockaway Inlet in an area bounded by lines drawn from position 40°34'56" N, 073°45'19" W, (approximate position of Silver Point breakwater buoy, LLNR 31500) running north to a point of land on the northwest side of the inlet at position 40°35'28" N, 073°46'12" W, thence easterly along the shore to the east side of the Atlantic Beach Bridge, State Route 878, over East Rockaway Inlet, thence across the bridge to the south side of East Rockaway Inlet, thence westerly along the shore and across the water to the beginning.

(b) *Regulations.* (1) The general regulations contained in 33 CFR 165.10, 165.11, and 165.13 apply.

(2) In accordance with the general regulations, the following regulations apply to vessels carrying petroleum products in excess of 250 barrels:

(i) The vessel must have plans in place to maintain a minimum of two feet under keel clearance at all times.

(ii) A vessel requiring a nighttime transit through East Rockaway Inlet may only do so only after receiving approval from the Captain of the Port Long Island Sound.

(iii) Vessels are prohibited from transiting East Rockaway Inlet if a small craft advisory or greater has been issued for the area unless specific approval is received from the Captain of the Port Long Island Sound.

(iv) In an emergency, any vessel may deviate from the regulations in this section to the extent necessary to avoid endangering the safety of persons, the environment, and or property. If deviation from the regulations is necessary, the master or their designee shall inform the Coast Guard as soon as it is practicable to do so.

(c) *Waivers.* (1) The Captain of the Port Long Island Sound may, upon request, waive any regulation in this section.

(2) An application for a waiver must state the need for the waiver and describe the proposed vessel operations through the Regulated Navigation Area.

Dated: October 22, 2009.

**Joseph L. Nimmich,**

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

[FR Doc. E9-26991 Filed 11-9-09; 8:45 am]

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Part 165**

[Docket No. USCG-2009-0319]

RIN 1625-AA00

**Safety Zone; Sea World December Fireworks, Mission Bay, San Diego, CA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a safety zone upon the navigable waters of Mission Bay near San Diego, California in support of the Sea World December Fireworks. This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other 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 p.m. until 10 p.m. on December 12, 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-2009-0319 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0319 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 Shane Jackson, Waterways Management, U.S. Coast Guard Sector San Diego at telephone 619-278-7262, e-mail [Shane.E.Jackson@uscg.mil](mailto:Shane.E.Jackson@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On August 6, 2009, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Sea World December Fireworks, Mission Bay, San Diego, CA in the **Federal Register** (74 FR 39247). We received no comments

on the proposed rule. No public meeting was requested, and none was held.

**Background and Purpose**

Sea World is sponsoring the Sea World December Fireworks, which will include a fireworks presentation from a barge in Mission Bay. The safety zone will extend in a 600 foot radius around the barge in approximate position 32°46'03" N, 117°13'11" W. This temporary safety zone is necessary to provide for the safety of the crew, spectators, participants, and other vessels and users of the waterway.

**Discussion of Comments and Changes**

The Coast Guard received no comments and made no changes to the proposed 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 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.