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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG-2010-1093]

RIN 1625-AA08

#### Special Local Regulation; Mavericks Surf Competition, Half Moon Bay, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary special local regulation on certain navigable waters of Half Moon Bay in support of the Mavericks Surf Competition. This special local regulation is necessary to ensure the safety of participants and spectators during the event. Entry into this zone is prohibited unless authorized by the Captain of the Port San Francisco, CA.

**DATES:** This rule is effective from February 15, 2011 through February 28, 2011.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2010-1093 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-1093 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 Lieutenant Junior Grade Liezl Nicholas at (415) 399-7436, or e-mail [D11-PF-MarineEvents@uscg.mil](mailto:D11-PF-MarineEvents@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 needed to provide for the safety of life and property on navigable waters. Because of the dangers posed by the surf conditions during the Mavericks Surf Competition, the special local regulation is necessary to provide for the safety of event participants, spectators, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

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**. Any delay in the effective date of this rule would expose mariners to the dangers posed by the surf conditions during the Mavericks Surf Competition.

##### Basis and Purpose

The Mavericks Surf Competition is a one day "Big Wave" surfing competition consisting of the top 24 big wave surfers and only occurs when 15-20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5-10 knots. Because weather conditions are integral to the occurrence of the Maverick Surf Competition, the exact date of the event cannot be determined in advance. The rock and reef ridges that make up the sea floor of the Pillar Point area combined with just the right weather conditions create the large waves that Mavericks is known for. Due to the treacherous terrain and un-navigable areas surrounding Pillar Point, the Coast Guard is establishing a special local regulation within a 1,000 yard radius of Pillar Point that restricts navigation near the surf competition area and neighboring treacherous terrain and identifies the safest area for spectator viewing on the water.

##### Discussion of Rule

The Coast Guard is establishing a special local regulation within a 1,000 yard radius of Pillar Point in Half Moon Bay. The Mavericks Surf Competition will occur in the vicinity of Pillar Point in the navigable waters of Half Moon

Bay, and the spectator viewing area will be located inside the following coordinates: 37°29.265' N 122°30.165' W, 37°29.248' N 122°29.978' W, and 37°29.406' N 122°30.081' W (NAD 83). Competitors, participating agencies (Coast Guard, San Mateo Police Marine Patrol, Pillar Point Harbor Patrol, San Mateo Fire Marine Patrol) and the public (to include but not restricted to: Commercial sightseeing vessels, photographer platforms and recreational boaters) will be given 48 hours notice prior to the start of the one day competition. This action is necessary to ensure the safety of participants and spectators during the event. During the enforcement period, unauthorized persons (persons not classified as spectators, participants or participating agencies) or vessels are prohibited from transiting through, anchoring, blocking, or loitering in the regulated area without permission of the Captain of the Port (COTP) or their designated representative.

The effect of the temporary special local regulation will be to regulate navigation in the vicinity of Pillar Point while the Mavericks Surf Competition is taking place. Except for persons or vessels authorized by the Coast Guard Patrol Commander (persons classified as spectators, participants or participating agencies), no person or vessel may transit within the bounds of the regulated area. These regulations are needed to keep spectators and vessels a safe distance away from the event participants and the un-navigable waters surrounding Pillar Point and to ensure the safety of participants, spectators, and transiting vessels.

The Coast Guard will enforce the temporary special local regulation from 8 a.m. to 3 p.m. on a date to be determined. Notification of the enforcement of the special local regulation will be provided to the public via broadcast notice to mariners, as well as through advertising on local media.

##### 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 rule regulates navigation in the waters encompassed by the regulated area, the effect of this rule will not be significant. The entities most likely to be affected are pleasure craft engaged in recreational activities. In addition, the rule will only regulate navigation for a limited time. Finally, the Public Broadcast Notice to Mariners will notify the users of local waterway to ensure that the regulated area will result in minimum impact.

#### **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: owners and operators of pleasure craft engaged in recreational activities and sightseeing intending to transit the area during the period of enforcement. This rule will not have a significant economic impact on a substantial number of small entities for several reasons: (i) This rule will encompass only a small portion of the waterway for a limited period of time; (ii) vessel traffic can pass safely around the area; (iii) vessels engaged in recreational activities and sightseeing have ample space outside of the affected areas of Half Moon Bay, CA to engage in these activities; and (iv) the maritime public will be advised in advance of this regulated area via Broadcast Notice to Mariners.

#### **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 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 0023.1 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)(h), of the Instruction. This rule involves establishing a temporary special local regulation.

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 100

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### PART 100—REGATTAS AND MARINE PARADES

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.

■ 2. Add § 100.T11-388 to read as follows:

#### § 100.T11-388 Special Local Regulation; Mavericks Surf Competition, Half Moon Bay, CA.

(a) *Regulated area.* (1) This temporary special local regulation is established for the waters located within a 1,000 yard radius of Pillar Point during the Mavericks Surf Competition.

(2) The spectator viewing area is located inside the following coordinates: 37°29.265' N 122°30.165' W, 37°29.248' N 122°29.978' W, and 37°29.406' N 122°30.081' W (NAD 83).

(b) *Enforcement Period.* On the date of the event, as determined by weather conditions, the special local regulation will be enforced from 8 a.m. to 3 p.m.

(c) *Special local regulations.* (1) Entry into, transiting, or anchoring within the regulated area as defined in (a)(1) of this section is prohibited unless authorized by the Captain of the Port San Francisco (COTP) or a designated representative. The regulated area is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(2) Persons or vessels that have been authorized to enter the area must comply with all directions given to them by the COTP or a designated representative.

(3) Spectators wishing to view the competition on the water may only do so from the spectator viewing area defined in paragraph (a)(2) of this section.

(4) Persons or vessels may request permission to enter the regulated area on VHF-16 or through the 24-hour

Command Center telephone at (415)-399-3547.

(5) "Designated representative" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel, and a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the special local regulation.

(d) *Effective period.* This section is effective during the Mavericks Surf Competition which is a one day competition scheduled to take place when organizers of the competition deem surf conditions to be appropriate on a day between January 26, 2011 and February 28, 2011.

Dated: January 25, 2011.

**J.W. Jewess,**

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

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#### DEPARTMENT OF HOMELAND SECURITY

#### Coast Guard

#### 33 CFR Part 117

[Docket No. USCG-2011-0067]

#### Drawbridge Operation Regulation; Gulf Intracoastal Waterway, New Orleans Harbor, Inner Harbor Navigation Canal, New Orleans, Orleans Parish, LA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation from regulations.

**SUMMARY:** The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the SR 39 (Judge Seeber/Claiborne Avenue) vertical lift bridge across the Inner Harbor Navigational Canal, mile 0.9, (Gulf Intracoastal Waterway mile 6.7 East of Harvey Lock), at New Orleans, Orleans Parish, Louisiana. This deviation is necessary to replace all of the deck plating and stringers on the bridge. This deviation allows the bridge to remain closed during the day except for two (2) scheduled openings per day during the entire length of the closure. **DATES:** This deviation is effective from 6:30 a.m. on Saturday, April 2, 2011 until 5:45 p.m. on Saturday, May 21, 2011.

**ADDRESSES:** Documents mentioned in this preamble as being available in the docket are part of docket USCG-2010-0935 and are available online by going to <http://www.regulations.gov>, inserting

USCG-2010-0935 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 rule, call or e-mail Mr. Jim Wetherington, Bridge Specialist, Eighth Coast Guard District Bridge Branch, US Coast Guard; telephone 504-671-2128 or e-mail [james.r.wetherington@uscg.mil](mailto:james.r.wetherington@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:** In order to perform necessary maintenance, the Louisiana Department of Transportation and Development has requested a temporary deviation from the published regulation for the SR 39 (Judge Seeber/Claiborne Avenue) vertical lift bridge across the Inner Harbor Navigational Canal, mile 0.9, (GIWW mile 6.7 EHL). The bridge provides 40 feet of vertical clearance when closed above mean high water, and 156 feet above MHW in the open-to-navigation position. Currently, under 33 CFR 117.458(a), the draw of the bridge shall open on signal; except that, from 6:30 a.m. to 8:30 a.m. and 3:30 p.m. to 5:45 p.m. Monday through Friday, the draw need not be open for the passage of vessels. The draw shall open at any time for a vessel in distress.

This deviation allows the bridge to remain closed to navigation from 6:30 a.m. until 5:45 p.m. from April 2, 2011 through May 21, 2011. However, during these times, the bridge will open for the passage of vessels at 10 a.m. and 2 p.m. daily. From 5:45 p.m. until 6:30 a.m., the bridge will remain in the open-to-navigation position or will open on signal. Exact times and dates for the closures will be published in the Local Notice to Mariners and broadcast via the Coast Guard Broadcast Notice to Mariners system.

Navigation on the waterway consists mainly of tugs with tows and ships. The Coast Guard has coordinated the closure with waterway users, industry, and other Coast Guard units. These dates and this schedule were chosen to minimize the significant effects on vessel traffic; however, vessels that can pass under the bridge in the closed-to-navigation position can do so any anytime. The bridge will not be able to open for emergencies.