

Dated: April 12, 2002.

**B.M. Salerno,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

[FR Doc. 02-10407 Filed 4-26-02; 8:45 am]

BILLING CODE 4910-15-U

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[COTP San Diego 02-009]

RIN 2115-AA97

#### Safety Zone; California and Arizona Border on the Colorado River

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of the Colorado River between California and Arizona. This safety zone will be established to close a portion of the Colorado River for an exercise conducted by the United States Marine Corps. Persons and vessels will be restricted from entering into, transiting through, or anchoring within this safety zone, unless authorized by the Captain of the Port, the Imperial County Sheriff or the La Paz County Sheriff.

**DATES:** This rule is effective from 6 a.m. (MST) April 18 through 6 p.m. May 1, 2002.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [COTP San Diego 02-009] and are available for inspection or copying at Marine Safety Office San Diego, 2716 North Harbor Drive, San Diego, CA 92101-1064, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer Austin Murai, USCG, c/o U.S. Coast Guard Captain of the Port, telephone (619) 683-6495.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b)(B), the Coast Guard finds good cause exists for not publishing an NPRM. Publishing an NPRM would be contrary to public policy because immediate action is needed to protect mariners from potential hazards associated with the Marine Corps' exercises. The final schedule for this event was not finalized

and communicated to the Coast Guard in sufficient time to allow for a comment period.

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**. Information regarding the precise location and other logistical details surrounding the event were not provided until a date fewer than 30 days before the event. Delaying the effective date of this rule would be contrary to the public interest and would not allow the Coast Guard to aid in maintaining the safety of the exercise participants and users of the waterway.

##### Background and Purpose

This safety zone is necessary to close a portion of a navigable waterway for an exercise conducted by the U.S. Marine Corps on the Colorado River between Yuma, Arizona and Blythe, California. This event will take place April 18-19, 22-26, 29-30, 2002 and May 1, 2002 from 6 a.m. to 6 p.m. (MST). This exercise will include the placement of a temporary bridge linking the California side to the Arizona side of the river, the transportation of military equipment, and the movement of Marine Corps personnel.

The safety zone includes a 400-yard radius around the following coordinate: 33°22'49" N and 114°42'22" W. The closure of this section of the Colorado River is necessary to prevent vessel traffic from transiting near the Marine Corps exercise and transiting under the temporary bridge. This temporary safety zone is also necessary to provide for the safety of the Marine Corps personnel, military equipment, and the temporary bridge and also to protect 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 representative.

##### Regulatory Evaluation

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. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary.

##### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we 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. The exercise will be located in Cibola National Wildlife Refuge, which should not affect any small entities, and the Coast Guard is unfamiliar with any commercial vessel traffic that transits through this section of the Colorado River.

##### Assistance for Small Entities

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).

##### 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 and have determined that this rule 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 concern 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further

environmental documentation, because we are establishing a safety zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying 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; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. From 6 a.m. April 18, 2002 through 6 p.m. May 1, 2002, add new § 165.T11-041 to read as follows:

#### § 165.T11-041 Safety Zone: Colorado River between Yuma, Arizona and Blythe, California.

(a) *Location.* The safety zone consists of the navigable waters of the Colorado River, between Yuma, Arizona and Blythe, California, enclosed by a 400-yard radius of the following coordinate: 33°22'49" N and 114°42'22" W.

(b) *Effective Dates.* This safety zone will be enforced from 6 a.m. to 6 p.m. (MST) on the following dates: April 18 through 19, April 22 through 26, April 29 through 30, 2002 and May 1, 2002. If the event concludes prior to the scheduled termination time, the United States Marine Corps, La Paz County Sheriff or Imperial County Sheriff will cease enforcement of this safety zone.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within this zone by all vessels is prohibited, unless authorized by the Captain of the Port, or his designated representative. Mariners requesting permission to transit through the safety zone may request authorization to do so from the Patrol Commander, Captain Callanan, USMC, who may be contacted via cell phone at (909) 763-0066.

Dated: April 9, 2002.

#### S.P. Metruck,

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

[FR Doc. 02-10469 Filed 4-26-02; 8:45 am]

BILLING CODE 4910-15-U

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 2 and 26

[WT Docket No. 00-32; FCC 02-47]

#### The 4.9 GHz Band Transferred From Federal Government Use

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** This document delays the effective date of the Second Report and Order, published April 9, 2002, (67 FR 17009) from May 9, 2002 to May 13, 2002. The Second Report and Order allocated 50 megahertz of spectrum in the 4940-4990 band (4.9 GHz band) for fixed and mobile services (except aeronautical mobile service) and designated this band for use in support of public safety. Due to unforeseen delays in the **Federal Register** publication of a final action that also revised page 55 of the Table of Frequency Allocations, 47 CFR 2.106, the Commission has determined that the effective date of the Second Report and Order must be delayed from May 9, 2002 to May 13, 2002. This action will allow page 55 to be printed in the correct sequence.

**DATES:** The effective date for the Second Report and Order amending 47 CFR parts 2 and 26, published April 9, 2002, 67 FR 17009, is delayed until May 13, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Genevieve Augustin, Esq., [guagusti@fcc.gov](mailto:guagusti@fcc.gov), Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418-0680.

**SUPPLEMENTARY INFORMATION:** The Commission adopted a *Second Report and Order*, WT Docket No. 00-32, FCC 02-47, on February 14, 2002, and released on February 27, 2002. An effective date of May 9, 2002, was set by the Commission, 67 FR 17009, April 9, 2002. The Second Report and Order allocated 50 megahertz of spectrum in the 4940-4990 MHz band (4.9 GHz band) for fixed and mobile services (except aeronautical mobile service) and designates this band for use in support of public safety. The allocation and designation provide Public safety users with additional spectrum to support new broadband applications. This document delays that effective date from May 9, 2002, until May 13, 2002.