

rule or otherwise does so at their own risk.

(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: September 18, 2009.

D.R. Callahan,

*Captain, U.S. Coast Guard, Commander,
Ninth Coast Guard District, Acting.*

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2009-0474]

RIN 1625-AA00

Safety Zone; Parker US Open Nationals; Parker, AZ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone upon the navigable waters of Lake Moovalya reigon on the lower Colorado River in support of the Parker US Open Nationals. 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 a.m. on October 9, 2009 through 6 p.m. on October 11, 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-2009-0474 and are available online by going to <http://www.regulations.gov>, inserting USCG-2009-0474 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, USCG, Waterways Management, U.S. Coast Guard Sector San Diego at telephone 619-278-7262, e-mail 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 July 6, 2009 we published a notice of proposed rulemaking (NPRM) entitled Safety zone; Parker US Open Nationals; Parker, AZ in the **Federal Register** (74 FR 31900). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

This temporary safety zone is established in support of the Parker US Open Nationals, a marine event that includes participating vessels along an established and marked course upon the Colorado River in Parker, AZ. This temporary safety zone is necessary to provide for the safety of the crews, spectators, and participants of the race and is also necessary to protect 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.

Discussion of Rule

The Coast Guard is establishing a safety zone that will be enforced from 8 a.m. to 6 p.m. on October 9, 2009 through October 11, 2009. The limits of this temporary safety zone are as follows: Starting at the Bluewater Marina in Parker, AZ, extending approximately 6 miles to La Paz County Park. This safety zone is necessary to provide for the safety of the crews, spectators, and participants of the Parker US Open Nationals 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.

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. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The safety zone is of a limited duration, ten hours per day for a period of three days, and is limited to a relatively small geographic area.

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. The safety zone will affect the following entities some of which may be small entities: the owners and operators of pleasure craft engaged in recreational activities and sightseeing. This safety zone will not have a significant economic impact on a substantial number of small entities because the safety zone is limited in scope and duration as it is in effect for ten hours per day for a period of three days.

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 establishment of a safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. This rule involves establishment of a safety zone.

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; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a new temporary zone § 165.T11-205 to read as follows:

§ 165.T11-205 Safety zone; Parker US Open Nationals; Parker, AZ

(a) *Location*. The limits of this temporary safety zone are as follows: Bluewater Marina in Parker, AZ, extending approximately 6 miles to La Paz County Park.

(b) *Enforcement Period*. This section will be enforced from 8 a.m. to 6 p.m. on October 9, 2009 through October 11, 2009. If the event concludes prior to the scheduled termination time, 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, 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: June 16, 2009.

T.H. Farris,

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

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POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket No. CP2009-50; Order No. 290]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adding Global Expedited Package Services 1 (CP2008-4) to the Competitive Product List. In addition, Global Expedited Package Services 2 will also be included as a new category. This action is consistent with changes in a recent law governing postal operations. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

DATES: Effective September 29, 2009 and is applicable beginning August 28, 2009.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202-789-6820 or stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION: *Regulatory History*, 74 FR 36538 (July 23, 2009).

I. Introduction

II. Discussion

III. Ordering Paragraphs

I. Introduction

In Order No. 262, the Commission authorized the inclusion of an additional Global Expedited Package Service (GEPS) contract within the Global Expedited Package Services 1 (GEPS 1) product.¹ The Postal Service seeks clarification of that order.² In its

initial filing in this docket, the Postal Service sought to have the instant contract designated as the new baseline agreement for purposes of determining the functional equivalence of future GEPS contracts.³ The issue was not addressed substantively in Order No. 262. Noting that the GEPS 1 contract currently serving as the baseline will terminate and be removed from the Competitive Product List, the Postal Service requests clarification “concerning the contract and docket number that it should use for future filings of additional contracts to be added to the GEPS 1 product.” Request at 2. By this order, the Commission grants clarification.

II. Discussion

In its initial Notice, the Postal Service asserts the new GEPS 1 contract is functionally equivalent to previous GEPS contracts, that it should be included within the GEPS 1 product, “and it should become the new baseline agreement for determining whether future contracts are functionally equivalent.” Notice at 2. In support of its contention that the instant contract is functionally equivalent, the Postal Service states that it shares similar cost and market characteristics with previously filed GEPS 1 contracts. *Id.* at 4. It also contends that the contract meets the criteria established in Governors’ Decision 08-7. Furthermore, the Postal Service identifies various similarities with other GEPS 1 contracts, *e.g.*, mailers are small and medium-sized businesses, the contract is for one year, and payment by permit imprint, as well as various differences, *e.g.*, volume or postage commitments. *Id.* at 4-5. In addition, the Postal Service identifies various provisions, which it characterizes as minor or incidental, which differ from those contained in the initial GEPS 1 contract. These include, for example, clarifying the availability of other postal products, simplifying notice of mailing requirements, and changes not related to either party’s obligation under the agreement. *Id.* at 5-7.

In its Notice, the Postal Service does not expand on its request that the instant contract “be considered the baseline agreement for determining functional equivalence for additional

agreements.” *Id.* at 7.⁴ Apparently, because the initial GEPS 1 contract is terminating and provisions have been added to subsequent GEPS 1 contracts, the Postal Service suggests that the instant GEPS 1 contract be designated as the baseline for purposes of determining the functional equivalence of future GEPS contracts.

The Commission’s expectation in labeling the initial GEPS contract (in Docket No. CP2008-5) as GEPS 1 was that it would be followed sequentially by additional GEPS contracts, *e.g.*, GEPS 2, GEPS 3, etc., that exhibited sufficient variation from the initial contract to warrant being classified as a new product. Given that the initial GEPS 1 contract is expiring and that the instant contract contains additional provisions, the Commission will label the latter as GEPS 2.⁵ Following the current practice, the Postal Service shall identify all significant differences between any new GEPS contract and the GEPS 2 product. Such differences would include terms and conditions that impose new obligations or new requirements on any party to the contract. The docket referenced in the caption should be Docket No. CP2009-50, in lieu of Docket No. CP2008-4. Following the current practice, a redacted copy of Governors’ Decision 08-7 should be included in the new filing along with an electronic link to it.⁶

Future requests to implement a new baseline agreement should be filed as an MC docket since it will result in adding a new product to the product list and may result in removing a product from the product list.⁷

III. Ordering Paragraphs

It is ordered:

1. The GEPS contract filed in Docket No. CP2009-50 is added to the Competitive Product List as a new product, Global Expedited Package

⁴ The Postal Service references PRC Order No. 227 issued in Docket No. CP2009-35 and states that “[t]he only additional difference between the agreement currently presented in this instant docket and the one presented in Docket No. CP2009-35 is the tender provision, which is described further below. *Id.* at 4, n.6.

⁵ This designation would also apply to GEPS contracts filed subsequent to the one in Docket No. CP2009-50, namely Docket Nos. CP2009-51, CP2009-52, CP2009-53, CP2009-58, and CP2009-59.

⁶ The Postal Service requests that the Inbound Direct Entry (IDE) contract filed in Docket No. CP2009-62 be considered the new baseline agreement for future IDE contracts. Absent a showing otherwise, the Commission intends to act on this request in a similar manner.

⁷ See *e.g.*, Docket Nos. MC2009-34 and CP2009-24, Request of the United States Postal Service to Add Express Mail Contract 4 to Competitive Product List and Notice of Establishment of Rates and Class Not of General Applicability, July 6, 2009.

¹ See PRC Order No. 262, Order Concerning Filing of Additional Global Expedited Package Services 1 Negotiated Services Agreement, July 29, 2009 (Order No. 262).

² United States Postal Service Response to Order No. 262 Concerning Termination Date of Additional

Global Expedited Package Services 1 Negotiated Service Agreement and Request for Clarification, July 30, 2009, at 2 (Request). No party filed a response to the Request.

³ Notice of United States Postal Service Filing of Functionally Equivalent Global Expedited Package Services 1 Negotiated Service Agreement, July 16, 2009, at 2, 7 (Notice).