



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-1069]

RIN 1625-AA00

Safety Zone; Chelsea River, Boston Inner Harbor, Boston, MA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is disestablishing the existing regulation for the Safety Zone: Chelsea River, Boston Inner Harbor, Boston, MA. Since the implementation of the regulation, physical changes have occurred within the confines of the safety zone, making the safety zone unnecessary.

DATES: This rule is effective on **[INSERT 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2012-1069. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" Box and click "SEARCH." Click on Open Docket Folder on the line associated with the rulemaking. You may

also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation, West Building, 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. Mark Cutter, Coast Guard Sector Boston Waterways Management Division, telephone 617-223-4000, e-mail Mark.E.Cutter@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP	Captain of the Port
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking

A. Regulatory History and Information

On Wednesday, August 7, 2013 the Coast Guard published a notice of proposed rulemaking (NPRM) in the Federal Register (78 FR 48085). We received one comment on the NPRM supporting the proposed action. Previously, on Thursday, January 31, 2013 the Coast Guard published an Advance notice of proposed rulemaking (ANPRM) in the Federal Register (78 FR 6782). There were 3 formal written

comments received. There were two public meetings held in which verbal comments were received. The minutes of these public meetings are available in the docket.

B. Basis and Purpose

The legal bases for this rule are 33 U.S.C. 1231, 1233; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, and 160.5; Pub. L. 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory safety zones.

The original Chelsea Street Bridge was a bascule-type bridge owned by the City of Boston and constructed in 1939. It spanned the Chelsea River providing a means for vehicles to travel between Chelsea, MA and East Boston, MA. Several petroleum-product transfer facilities are located on the Chelsea River, upstream and downstream of the Chelsea Street Bridge. Transit of tank vessels through the bridge is necessary to access the petroleum facilities upstream of the bridge. The narrow, ninety-six foot horizontal span created a narrow passage through the bridge for larger vessels. Adding to the difficulty is the close proximity of neighboring shore structures and, at times, vessels moored at the Sunoco Logistics facility downstream of the bridge on the East Boston side. These factors led to the

establishment of the present safety zone regulation which restricts certain vessel passage through the Chelsea Street Bridge based on vessel dimensional criteria, assist tug support, and daylight restrictions.

Since the implementation of the regulations, physical changes have occurred within the confines of the safety zone. A new vertical lift span bridge with a 175 foot vertical clearance and a 175 foot horizontal navigable channel span has been constructed in place of the old Chelsea Street Bridge. The federal navigational channel has been expanded to a width of 175 feet. Six new permanent fixed lighted aids to navigation structures have been installed in the immediate area of the bridge to best mark the new channel.

The three written comments received in the docket were all in favor of disestablishing the safety zone. Two of those written comments were from the Boston Harbor Pilots Association and one joint comment from the three oil terminals up river of the safety zone; Global Partners LP, Gulf Oil Limited Partnership, and Irving Oil Terminals Inc. All the verbal comments received in the public meetings were in favor of disestablishing the safety zone. These comments can be seen in the docket under meeting minutes.

C. Discussion of the Final Rule

This final rule was based on comments received on the advance notice of proposed rulemaking; recommending the Coast Guard remove the existing safety zone and no comments on the notice of proposed rulemaking. We received one comment on the NPRM supporting the Coast Guard's proposal to disestablish the safety zone. The commenter agreed that the zone is now unnecessary to promote navigational safety.

This rulemaking will disestablish the existing safety zone codified at 33 CFR 165.120, Safety Zone: Chelsea River, Boston Inner Harbor, Boston, MA. This safety zone is being disestablished because physical changes within the confines of the safety zone now make the safety zone unnecessary.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not

require an assessment of potential costs and benefits under section 6(a)(3) Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that Order. We expect the economic impact of this rule to be minimal because removing this safety zone would lessen the restriction on vessels transiting this area.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received three written comments and multiple other comments from professional mariners, oil terminals and the general public. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please

contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

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.

4. 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).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be

received without jeopardizing the safety or security of people, places or vessels.

7. 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 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. 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.

10. Protection of Children from Environmental Health

Risks

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.

11. 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.

12. Energy Effects

This action is not a "Significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. 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 that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the disestablishment of an existing safety zone. This action is categorically excluded from further review under, paragraph 34(g) of figure 2-1 of the Commandant Instruction.

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; 46 U.S.C. Chapter 701, 3306, 3703; 33 CFR 1.05-1, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

§ 165.120 [Removed]

2. Remove § 165.120.

Dated: September 11, 2013.

J. C. O'Connor III,
Captain, U.S. Coast Guard,
Captain of the Port Boston.

[FR Doc. 2013-23272 Filed 09/24/2013 at 8:45 am;
Publication Date: 09/25/2013]