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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-02-058]

RIN 2115-AA97

#### **Safety Zone; Chelsea River Safety Zone for McArdle Bridge Repairs, Chelsea River, East Boston, Massachusetts**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Chelsea River to aid completion of the McArdle Bridge repairs in East Boston, MA. The safety zone will temporarily close all waters 100-yards upstream and downstream of the McArdle Bridge. The safety zone prohibits entry into or movement within this portion of the Chelsea River and is needed to facilitate repair efforts and protect the maritime public from the hazards posed.

**DATES:** This rule is effective from May 13 until July 13, 2002.

**ADDRESSES:** Documents indicated in this preamble are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT David M. Sherry, Marine Safety Office Boston, Waterways Safety and Response Division, at (617) 223-3000.

#### **SUPPLEMENTARY INFORMATION:**

##### **Regulatory Information**

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this rule. Good cause exists for not publishing an NPRM and for making this regulation effective in less than 30 days after **Federal Register** publication. Information about this event was not provided to the Coast Guard until April 25, 2002, making it impossible to draft or publish an NPRM or a final rule 30 days in advance of its effective date.

The McArdle Bridge repairs were determined necessary as a result of

recent inspections by the Massachusetts Highway Department, during which steel grating and support failures on the McArdle Bridge were discovered. Waterway closures in the vicinity of and beneath the bridge are needed because repair equipment and portions of the bridge deck will be extending over the waterway, and hotwork (welding and grinding) which will shoot sparks over the waterway in the vicinity of the bridge will be conducted. Delaying this work for sufficient time to conduct a public notice rulemaking and advanced publication would be contrary to the public interest for the reasons outlined below.

The marine industry representatives who operate on the Chelsea and Fore Rivers have stated that it is in their best interest for this work to be completed during the prescribed time period. Work is already scheduled on the Weymouth Fore River Bridge from June to August 2002, during which time the waterway underneath the Weymouth Fore River Bridge will also be periodically closed. It is in the best interest of the public and industry that these two channel closures not have a significant overlap. With the closures scheduled in this rule (Chelsea River), there will be minimal overlap between the two projects (1 week total). These two rivers receive 100 percent of the petroleum for commercial sale in the Captain of the Port (COTP) Boston, MA zone, and the majority of the petroleum for all of New England. To have a significant overlap in the lengthy closures of both of these waterways would make planning petroleum vessel arrivals and departures around the closures extremely difficult, placing unmanageable burdens on the marine industry in both rivers, and as a result negatively impacting the supply of petroleum for the entire region. Thus, due to the already scheduled Weymouth Fore River safety zones and waterway restrictions, the next available time period to schedule the McArdle Bridge repairs would be fall or winter of 2002.

Delaying the Chelsea River safety zones until the fall or winter of 2002 will introduce different problems with respect to the bridge repairs, and place more burdens on the petroleum industry in the Chelsea River, than would conducting this work in the Spring as proposed. The industry receives more vessels during the fall and winter months than any other time due to the demand for home heating oil. Potential delays in petroleum-laden vessels during the critical fall and winter months could negatively impact local oil prices and consumers. In addition, significant delays in the actual McArdle

Bridge repair work could result from cold weather during this time of year.

Further delaying this work also places the future operability of the bridge for waterway and roadway use at risk. Further delay in the structural steel work again places at risk the ability of the marine terminals on the Chelsea River to continue to receive vessels. Also, the Massachusetts Highway Department will need to restrict road traffic over the bridge to a certain tonnage if the work is not done soon. If the work is delayed further, road traffic may be completely restricted from the bridge, causing unmanageable traffic situations in Chelsea and East Boston. Thus, it is in the best interest of maintaining safe marine commerce, avoiding significant road traffic problems, and ensuring the work is completed as safely and quickly as practicable, that these closures come into effect on May 13, 2002.

This temporary safety zone is only for evening periods and should have a minimal impact on vessel transits due to the fact that the zone will be in effect only during night time when recreational boaters do not typically use the waterway, night time commercial traffic is already limited by the constraints of the regulations governing the Chelsea Street Bridge under 33 CFR 165.120, and the commercial users of the Chelsea River have stated that restricting night time use of the waterway during this time of the year will place the least burden on their operations.

##### **Discussion of Rule**

This regulation establishes a safety zone on all waters of the Chelsea River 100-yards upstream and downstream of the McArdle Bridge. The safety zone is in effect from May 13 until July 13, 2002, and will be enforced from sunset until sunrise each day during this period. This safety zone prohibits entry into or movement within this portion of the Chelsea River and is needed to provide the Middlesex Corporation sufficient time to safely complete the necessary repairs, painting, steel support, and grating work. The work is needed to ensure the continued safe operability of the McArdle Bridge. The Captain of the Port does anticipate minimal negative impact on vessel traffic due to this repair work. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

##### **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 minimal enough that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this rule prevents traffic from transiting a portion of the Chelsea River during the prescribed periods, the effect of this rule will not be significant for several reasons: the channel will be closed during night time when recreational boaters do not typically use the waterway; many of the commercial vessels are already limited by size to daylight only transits due to the regulations governing the Chelsea Street Bridge under 33 CFR 165.120; and the commercial users of the Chelsea River have stated that restricting night time use of the waterway during this time of the year will not burden their operations.

#### **Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard 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: the owners or operators of vessels intending to transit a portion of the Chelsea River from May 13 until July 13, 2002, during sunset to sunrise each day of this period. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the bridge will be closed during night time when recreational boaters do not typically use the waterway; most night time commercial traffic is already limited by the constraints of the regulations governing the Chelsea Street Bridge under 33 CFR 165.120; the commercial users of the Chelsea River

have stated that restricting night time use of the waterway during this time of the year will not burden their operations; and the Coast Guard will issue maritime advisories widely available to users of Boston Harbor and the Chelsea River, before the effective period, via marine information broadcasts.

#### **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 would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### **Federalism**

The Coast Guard analyzed this rule under Executive Order 13132, Federalism, and has determined that this rule does not have implications for federalism under that Order.

#### **Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

#### **Taking of Private Property**

This rule would 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**

The Coast Guard 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 pose 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.

#### **Environment**

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket where indicated under ADDRESSES.

#### **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.

#### **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 proposes to amend 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 May 13 until July 13, 2002 add temporary § 165.T01–058 to read as follows:

**§ 165.T01–058 Safety Zone: Chelsea River Safety Zone for McArdle Bridge Repairs, Chelsea River, East Boston, Massachusetts.**

(a) *Location.* The following area is a safety zone: All waters of the Chelsea River 100-yards upstream and downstream of the McArdle Bridge, East Boston, MA.

(b) *Effective Date.* This section is effective from May 13 until July 13, 2002, and will be enforced from sunset until sunrise each day during this period.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the Captain of the Port (COTP) or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: May 6, 2002.

**B.M. Salerno,**

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

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IL214–1a; FRL–7164–4]

### Approval and Promulgation of Implementation Plans; Illinois Emission Reporting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to Illinois rules for emission reporting. Illinois requested these revisions on November 6, 2001. The revisions address two purposes. First, these revisions restructure previously approved regulations, eliminating a category with intermediate reporting requirements and thus requiring further reporting by a modest number of

sources. Second, these revisions add requirements for reporting emissions of hazardous air pollutants by sources in the Chicago area volatile organic compound emissions trading program. This information on hazardous air pollutant emissions will help Illinois assess whether its emission trading program has adverse effects on the magnitude and distribution of hazardous air pollutant emissions. EPA concludes that the revised regulations continue to satisfy emissions reporting requirements and provide for reporting of emissions information needed to assess the impact of the emissions trading program on the distribution and overall magnitude of hazardous air pollutant emissions.

**DATES:** This rule is effective on July 15, 2002, unless EPA receives written adverse comments by June 14, 2002. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Send comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the State's submittal are available for inspection at the following address: (We recommend that you telephone John Summerhays at (312) 886–6067, before visiting the Region 5 Office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** John Summerhays, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604–3590, (312) 886–6067.

**SUPPLEMENTARY INFORMATION:** This document is organized according to the following table of contents:

- I. What changes did Illinois make?
- II. What is EPA's view of these changes?
- III. EPA Action.
- IV. Administrative Requirements.

#### I. What Changes Did Illinois Make?

On November 6, 2001, Illinois submitted revised rules for emission reporting. These changes amend rules that USEPA approved on September 9, 1993, at 58 FR 47379. These rules include two types of revisions. The first type of revision is a restructuring and simplification of the requirements for annual emission reporting. The second type of revision affects ozone season emission reporting for sources subject to the Illinois trading program, most

notably adding requirements for reporting emissions of hazardous air pollutants (HAPs).

The restructuring and simplification of the rule has a modest substantive effect on requirements for annual emission reporting. The first change affects the categories of emission reports, eliminating an intermediate reporting category and subjecting the small number of sources in this category to greater reporting requirements. Specifically, the previously approved rules had three categories of reporting, known as (1) the long report, (2) the medium report, and (3) the short report. These reports were to be submitted respectively by (1) sources permitted to emit a total emissions (summed across all regulated pollutants, such as particulate matter and nitrogen oxides) of at least 25 tons per year, (2) ozone nonattainment area sources not included in the first category that nevertheless had potential emissions of more than 25 tons per year of volatile organic compounds (VOC), nitrogen oxides (NO<sub>x</sub>), or both, and (3) smaller sources required to have a state operating permit. Under the revised rules, the first two of these categories must submit the long report. The long report requires reporting for all pollutants rather than just for VOC or NO<sub>x</sub>, so the rule revision requires slight additional reporting for a small number of sources of VOC and NO<sub>x</sub>.

Illinois also made several other less significant changes to annual emissions reporting requirements. The list of required information, previously specified in standard forms, is now specified in the rule. Illinois has exempted operations defined as insignificant activities from emission reporting requirements. Illinois has consolidated its definitions into one rule and deleted obsolete rules concerning initial reporting schedules.

The second major element of Illinois' revised emission reporting rule concerns reporting of ozone season emissions by sources subject to the Illinois trading program. "Ozone season" is defined here as May to September, which is the seasonal allotment period for the trading program. This portion of the emission reporting rule is very similar to the corresponding portion of Part 205 of Title 35 of the Illinois Administrative Code, which codifies what Illinois calls the Emissions Reduction Market System. Both rules set deadlines by which sources in that program must report VOC emissions during the ozone season as well as information on how emissions were determined. The emission reporting rule reiterates,