



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2013-0612]

RIN 1625-AA00

Safety Zone; Motion Picture Filming; Chicago River;

Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing three temporary safety zones on the Chicago River in Chicago, IL. These safety zones are intended to restrict vessels from a portion of the Chicago River due to the filming of a motion picture. These temporary safety zones are necessary to protect the surrounding public and vessels from the hazards associated with the stunt work, rigging, and other hazards involved in the filming of a motion picture.

DATES: This rule will be enforced with actual notice from 4 a.m. on July 21, 2013, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. This rule is effective in the Code of Federal Regulations from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], until 9 p.m. on

August 31, 2013. This rule will be enforced intermittently from 4 a.m. to 9 p.m. daily between July 21, 2013, and August 31, 2013.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2013-0612. 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 this 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 temporary rule, contact or email MST1 Joseph McCollum, U.S. Coast Guard Sector Lake Michigan, at 414-747-7148 or Joseph.P.McCollum@uscg.mil. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
TFR	Temporary Final Rule

A. Regulatory History and 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 an NPRM with respect to this rule because doing so would be impracticable. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with the filming of a motion picture, which are

discussed further below.

Under 5 U.S.C. 553(d)(3), The Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the Federal Register. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

B. Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and limited access areas: 33 U.S.C. 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; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

From July 21, 2013, until August 31, 2013, the Coast Guard anticipates that Rozar Pictures, LLC will film scenes for a motion picture on the Chicago River. In late July, stunt work involving wire-suspension is expected to be filmed at the West Lake Street Bridge on the South Branch of the Chicago River. In August, Rozar Pictures, LLC is expected to film the length of the Main Branch of the Chicago River using a low-flying helicopter and/or multiple boats. Also in August, stunts and special effects involving an inflatable boat and two helicopters are

expected to be filmed in the vicinity of the North Lake Shore Drive Bridge on the Main Branch of the Chicago River.

The Captain of the Port, Lake Michigan, has determined that this filming event - with associated stunts, boats, and helicopters - will pose a significant risk to public safety and property. Such hazards include the collision of stunt, film, and spectator vessels in a congested area.

Because of the possibility of bad weather on one or more of the filming days listed above, and considering the unpredictability involved in filming stunt work, this rule was written with a wider range of dates and times to give the Coast Guard flexibility to accommodate changes in the film schedule between July 21 and August 21.

C. Discussion of the Final Rule

With the aforementioned hazards in mind, the Captain of the Port, Lake Michigan, has determined that three temporary safety zones are necessary to ensure the safety of persons and vessels during the filming of a motion picture on the Chicago River. These zones are effective from 4 a.m. on July 21, 2013, until 9 p.m. on August 31, 2013. During this date range, these safety zones will be enforced during the time of filming and associated stunt work, between 4 a.m. to 9 p.m. The Coast Guard anticipates that no more than one safety zone will be enforced on a

given day. The Coast Guard will issue a Broadcast Notice to Mariners to provide the public with advanced notice of those days that these safety zones will be enforced. The Coast Guard on-scene Captain of the Port Representative will provide actual notice on-scene.

Three safety zones will be established as follows:

(1) All waters of the Chicago River within a 150-yard radius of the West Lake Street Bridge in position 41°53'8.6"N, 087°38'15.9"W (NAD 83).

(2) All waters of the Chicago River and Lake Michigan within a 150-yard radius of a position in the vicinity of the North Lake Shore Drive bridge at 41°53'18.8"N, 087°36'43.1"W (NAD 83).

(3) All waters of the Chicago River from the West Lake Street Bridge in position 41°53'8.6"N, 087°38'15.9"W, then north to an imaginary line connecting positions 41°53'11.6"N, 087°38'20.5"W and 41°53'14.0"N, 087°38'17.2"W, then east along the main branch of the river to a position of 41°53'19"N, 087°36'33"W (NAD 83) in the vicinity of the North Lake Shore Drive Bridge.

Entry into, transiting, or anchoring within the safety zones is prohibited unless authorized by the Captain of the Port, Lake Michigan, or his designated on-scene representative. The Captain of the Port or his designated

on-scene representative may be contacted via VHF Channel 16.

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 and 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) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zones created by this

rule will be small and enforced during for a limited time on a limited number of days in July and August. Under certain conditions, moreover, vessels may still transit through the safety zones when permitted by the Captain of the Port. Furthermore, the Coast Guard anticipates that only one of the three safety zones will be enforced on each day.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this temporary rule on small entities. 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 might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Chicago River during the times in which the safety zones are enforced in July and August, 2013.

These safety zones will not have a significant economic impact on a substantial number of small entities for the reasons cited in the Regulatory Planning and Review section. Additionally, before the enforcement of these zones, we would issue local Broadcast Notice to Mariners so vessel owners and operators can plan accordingly.

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 section above.

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.

4. Collection of Information

This rule will not call for a 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 the 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 this rule 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 an 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

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 determined 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 establishment of a safety zone and, therefore it is categorically excluded from further review under paragraph

34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

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. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T09-0612 to read as follows:

§ 165.T09-0612 Safety Zone; Motion picture filming; Chicago River; Chicago, IL.

(a) Safety Zones. The following are designated as safety zones:

(1) All waters of the Chicago River within a 150-yard radius of the West Lake Street Bridge in position 41°53'8.6"N, 087°38'15.9"W (NAD 83).

(2) All waters of the Chicago River and Lake Michigan within a 150-yard radius of a position in the vicinity of the North Lake Shore Drive bridge at 41°53'18.8"N, 087°36'43.1"W (NAD 83).

(3) All waters of the Chicago River from the West Lake Street Bridge in position 41°53'8.6"N, 087°38'15.9"W, then north to an imaginary line connecting positions 41°53'11.6"N, 087°38'20.5"W and 41°53'14.0"N, 087°38'17.2"W, then east along the main branch of the river to a position of 41°53'19"N, 087°36'33"W (NAD 83) in the vicinity of the North Lake Shore Drive Bridge.

(b) Effective and Enforcement Period. These zones are effective from July 21, 2013, until August 31, 2013. These zones will be enforced on intermittent dates between July 21 through August 31, 2013.

(c) Regulations. (1) In accordance with the general regulations in § 165.23 of this part, entry into,

transiting, or anchoring within these safety zones is prohibited unless authorized by the Captain of the Port, Lake Michigan or his designated on-scene representative.

(2) These safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port, Lake Michigan or his designated on-scene representative.

(3) The "on-scene representative" of the Captain of the Port, Lake Michigan is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Lake Michigan to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zones shall contact the Captain of the Port, Lake Michigan or his on-scene representative to obtain permission to do so. The Captain of the Port, Lake Michigan or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zones must comply with all directions given to them by the Captain of the Port, Lake Michigan, or his on-scene representative.

Dated: July 18, 2013

M. W. SIBLEY
Captain, U. S. Coast Guard
Captain of the Port, Lake Michigan

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