



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

RIN 1625-AA00

[Docket Number USCG-2014-0556]

Safety Zone; Columbus Road Bridge Installation, Cuyahoga River, Cleveland, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Cuyahoga River, Cleveland, OH. This temporary safety zone is intended to restrict vessels from a portion of the Cuyahoga River during the installation operation for the new Columbus Road Bridge spanning the Cuyahoga River. This temporary safety zone is necessary to protect mariners and vessels and construction crews from the navigational hazards associated with blocking the river for the large scale heavy lift of the bridge structure and securing it to the towers on either side of the river.

DATES: This rule is effective from 6 a.m. July 28, 2014 to 6 a.m. August 1, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2014-0556]. 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 rule, call or e-mail LTJG Amanda Cost, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716-843-9573, e-mail SectorBuffaloMarineSafety@uscg.mil. If you have questions on viewing the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826 or 1-800-647-5527.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
§	Section

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 (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 a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. 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 both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect vessels and mariners from the hazards associated with the demolition of a bridge across the span of a river.

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; 33 CFR 1.05-1, 160.5; Department of Homeland Security Delegation No. 0170.1.

This temporary safety zone is intended to restrict vessels from a portion of the Cuyahoga River during the installation operation for the new Columbus Road Bridge spanning the Cuyahoga River. This temporary safety zone is necessary to protect mariners and vessels and construction crews from the navigational hazards associated with blocking the river for the large scale heavy lift of the bridge structure and securing it to the towers on either side of the river. This rule is effective from 6 a.m. July 28, 2014, to 6 a.m. August 1, 2014.

During this effective period, there will be a continuous closure of a portion of the Cuyahoga River at MM 1.93 and resultant stoppage of any traffic beyond MM 1.93 south to the terminus of the maintained navigable channel. The Captain of the Port Buffalo has determined that these bridge installation operations will pose a significant risk to the maritime public. Such hazards include falling bridge structure, falling building materials, death, and serious bodily harm.

C. Discussion of the Temporary Final Rule

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone is necessary to ensure the safety of mariners and vessels on the

Cuyahoga River during the Columbus Road Bridge installation operation in Cleveland, OH.

This safety zone will be effective from 6 a.m. on July 28, 2014, to 6 a.m. on August 1, 2014. The safety zone will encompass waters of the Cuyahoga River in the vicinity of the Columbus Road Bridge on the Cuyahoga River at river mile marker 1.93. Specifically, the safety zone will cover an area 1000 feet upstream and 1000 feet downstream of the bridge from position 41°29'16.4"N, 081°42'01.7"W, (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo 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.

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 zone created by this rule will be relatively small and enforced for a maximum of 4 days and will result in the reinstallation of critical local infrastructure crossing the Cuyahoga River. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port or his designated on-scene representative.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered the impact of this 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 a portion of the Cuyahoga River in Cleveland, OH from 6 a.m. July 28, 2014 to 6 a.m. August 1, 2014.

This safety zone 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 the zone, 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.T09-0556 to read as follows:

§ 165.T09-0556 Safety Zone; Columbus Road Bridge Installation, Cuyahoga River, Cleveland, OH.

(a) Location. This safety zone will encompass all waters of the Cuyahoga River 1000 feet upriver and 1000 feet down river of the Columbus Road Bridge in position 41°29'16.4"N, 081°42'01.7"W, (NAD 83).

(b) Enforcement period. This section will be enforced from 6 a.m. July 28, 2014 to 6 a.m. August 1, 2014.

(c) Regulations. (1) Under general regulations in § 165.23, entry into, transiting, or anchoring within the safety zone described in paragraph (a) of this temporary section is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

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

(4) To seek permission to enter or operate within the safety zone, vessel operators or other persons must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo, or his on-scene representative may be contacted via VHF Channel 16.

Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: July 10, 2014.

B. W. ROCHE,
Captain, U. S. Coast Guard,
Captain of the Port Buffalo.

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