



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2016-0825]

RIN 1625-AA00

Safety Zone; United Illuminating Company Housatonic River Crossing Project; Housatonic River; Milford and Stratford, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone for certain waters of the Housatonic River. This action is necessary to provide for the safety of life on these navigable waters near Milford and Stratford, CT, during the United Illuminating Company Housatonic River Crossing Project from April 26, 2017 to May 4, 2017, and from July 29, 2017 to August 3, 2017. This proposed rulemaking would prohibit entry of vessels or people into the safety zone unless authorized by the Captain of the Port Long Island Sound or a designated representative. The safety zone will only be enforced during cable pulling operations or other instances which may create a hazard to navigation. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2016-0825

using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Petty Officer Katherine Linnick, Prevention Department, Coast Guard Sector Long Island Sound, telephone (203) 468-4565, e-mail [Katherine.E.Linnick@uscg.mil](mailto:Katherine.E.Linnick@uscg.mil)

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

|        |                                 |
|--------|---------------------------------|
| CFR    | Code of Federal Regulations     |
| DHS    | Department of Homeland Security |
| E. O.  | Executive order                 |
| FR     | <b>Federal Register</b>         |
| NPRM   | Notice of proposed rulemaking   |
| §      | Section                         |
| U.S.C. | United States Code              |
| NAD 83 | North American Datum 1983       |

II. Background, Purpose, and Legal Basis

This rulemaking proposes to establish a safety zone for certain waters of the Housatonic River near Milford and Stratford, CT. Corresponding regulatory history is discussed below.

On August 25, 2016, United Illuminating Company notified the Coast Guard that it would conduct a project involving the installation of new transmission conductors over the Housatonic River near Stratford and Milford, CT. On December 13, 2016, the Coast Guard published a temporary final rule entitled, “Safety Zone; United Illuminating Company Housatonic River Crossing Project; Housatonic River, Milford and Stratford, CT” in the **Federal Register** (81 FR 89862).

The project is scheduled to be completed in two phases, the first being the stringing of optical fiber ground wires on the North circuit from April 26, 2017 to May 4, 2017. The second

phase will include the stringing of optical fiber ground wires on the South circuit from July 29, 2017 to August 3, 2017. The proposed work area is between the eastern and western shores of the Housatonic River from the southern boundary of the Metro-North Rail Bridge. It extends approximately 525 feet upstream for the northern boundary. Potential hazards from this project include entanglement of vessels with the messenger line and falling equipment from the electrical towers. The Captain of the Port Long Island Sound (COTP) has determined that the potential hazards associated with the cable crossing project could be a safety concern for anyone within the proposed work area.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within the work zone before, during, and after each messenger pulling operation. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory safety zones.

### III. Discussion of Proposed Rule

The COTP proposes to establish a safety zone from 8:00 a.m. on April 26, 2017 through 6:00 p.m. on May 4, 2017, and from 8:00 a.m. on July 29, 2017 through 6:00 p.m. on August 3, 2017. The safety zone will cover all navigable waters of the Housatonic River near Milford and Stratford, CT contained within the following area: beginning at a point on land in position at 41°12'17" N, 073°06'40" W near the Governor John Davis Lodge Turnpike (I-95) Bridge; then northeast across the Housatonic River to a point on land in position at 41°12'20" N, 073°06'29" W near the Governor John Davis Lodge Turnpike (I-95) Bridge; then northwest along the shoreline to a point on land in position at 41°12'25" N, 073°06'31" W; then southwest across the Housatonic River to a point on land in position at 41°12'22" N, 073°06'43" W; then southeast

along the shoreline back to point of origin (NAD 83). All positions are approximate. The duration of the zone is intended to ensure the safety of vessels and these navigable waters within the work zone before, during, and after each messenger pulling operation or during any instance that necessitates a temporary closure of the Housatonic River at the work site. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The safety zone will only be enforced during when project work causes a potential hazard to navigation. The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 eight hours in advance of any scheduled enforcement period. The regulatory text we are proposing appears at the end of this document.

#### IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and executive orders., and we discuss First Amendment rights of protestors.

##### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a “significant regulatory action,” under E.O. 12866. Accordingly, this NPRM has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the safety zone. Vessel traffic would be able to safely transit around this safety zone, which would affect a small designated area of the Housatonic River for less than one hour at a time. It also

may be enforced temporarily during the cable crossing project if necessitated by an emergency. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed 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. The Coast Guard will not

retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under E.O. 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 proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in E.O. 13132.

Also, this proposed rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

#### E. 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this proposed 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 (42 U.S.C. 4321-4370f), and have made a preliminary determination 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 proposed rule involves a safety zone enforced for less than one hour at a time that would prohibit entry within the work zone during each messenger pulling operation. It also may be enforced temporarily during the cable-crossing project if necessitated by an emergency, such as equipment falling from the towers into the Housatonic River. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2-1 of Commandant Instruction M16475.ID. A preliminary environmental analysis checklist is 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 proposed rule.

#### G. 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.

#### V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, and 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, 6.04-1, 6.04-6, and 160.5; and Department of Homeland Security Delegation No. 0170.1.

2. Add §165.T01-0825 to read as follows:

§165.T01-0825 Safety Zone; United Illuminating Company Housatonic River Crossing Project; Housatonic River; Milford and Stratford, CT.

(a) Location: The following area is included with this safety zone:

(1) All navigable waters of the Housatonic River near Milford and Stratford, CT contained within the following area; beginning at a point on land in position at 41°12'17" N, 073°06'40" W near the Governor John Davis Lodge Turnpike (I-95) Bridge; then northeast across the Housatonic River to a point on land in position at 41°12'20" N, 073°06'29" W near the Governor John Davis Lodge Turnpike (I-95) Bridge; then northwest along the shoreline to a point on land in position at 41°12'25" N, 073°06'31" W; then southwest across the Housatonic River to a point on land in position at 41°12'22" N, 073°06'43" W; then southeast along the shoreline back to point of origin (NAD 83).

(2) All positions are approximate.

(b) Effective and Enforcement Period: This rule will be effective from 8:00 a.m. on April 26, 2017 to 6:00 p.m. on May 4, 2017, and from 8:00 a.m. on July 29, 2017 to 6:00 p.m. on August 3, 2017. Vessel traffic would be able to safely transit around this safety zone, which would affect a small designated area of the Housatonic River for less than one hour at a time. It also may be enforced temporarily during the cable crossing cable-crossing project if necessitated by an emergency. The Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine

channel 16 eight hours in advance to any scheduled period of enforcement or as soon as practicable in response to an emergency.

(c) Definitions. The following definitions apply to this section: A “designated representative” is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the COTP, Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. “Official patrol vessels” may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Sector Long Island Sound. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation. A “work vessel” is any vessel provided by United Illuminating Company for the Housatonic River Crossing Project and may be hailed via VHF channel 13 or 16.

(d) Regulations. (1) The general regulations contained in 33 CFR 165.23 apply.

(2) In accordance with the general regulations in 33 CFR 165.23, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

(3) Operators of vessels desiring to enter or operate within the safety zone should contact the COTP Sector Long Island Sound at 203-468-4401 (Sector LIS command center), or the designated representative via VHF channel 16 to obtain permission to do so. Request to enter or operate in the safety zone must be made 24 hours in advanced of the planned undertaking.

(4) Mariners are requested to proceed with caution after passing arrangements have been made. Mariners are requested to cooperate with the United Illuminating Company work vessels for the safety of all concerned. The United Illuminating Company work vessels will be monitoring VHF channels 13 and 16. Mariners are requested to proceed with extreme caution and operate at their slowest safe speed as to not cause a wake.

(5) Any vessel given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP Sector Long Island Sound, or the designated on-scene representative.

(6) Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed.

Dated: February 24, 2017

A. E. TUCCI,  
Captain, U. S. Coast Guard,  
Captain of the Port Sector Long Island Sound.

[FR Doc. 2017-04978 Filed: 3/13/2017 8:45 am; Publication Date: 3/14/2017]