9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2014-1059]

RIN 1625-AA00

Safety Zone; Moon Island - Long Island Bridge Demolition; Boston Inner Harbor, Quincy Bay; Quincy, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary safety zones within the Sector Boston, Captain of the Port (COTP) Zone on the navigable waters of the Boston Inner Harbor, Quincy Bay for the demolition of the Moon Island - Long Island Bridge, between Moon Island and Long Island, Boston, MA. This action is necessary to provide for the safety of life on navigable waters prior to and during demolition and removal of the bridge spans. Entering into, transiting through, remaining in, anchoring, or mooring within this safety zone is prohibited unless authorized by the Captain of the Port (COTP) Sector Boston.

DATES: This rule is effective without actual notice from 12:01 a.m. on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** until 11:59 p.m. on December 31, 2015. For the purposes of enforcement, actual notice will be used from the date the rule

was signed, February 13, 2015, until **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2014-1059 and are available online by going to http://www.regulations.gov, inserting USCG-2014-1059 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 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 notice, contact 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 material related to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
COTP	Captain of the Port
FR	Federal Register
NPRM	Notice of Proposed Rulemaking
NAD 83	North American Datum of 1983

A. Regulatory Information 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 publishing an NPRM would be impracticable and contrary to the public interest. Sufficient information regarding the severe deteriorating condition of this bridge was only received by the City of Boston in October 2014 after an inspection was conducted in accordance with the new Federal Highways Administration (FHWA) guidelines. That inspection deemed the bridge unsafe for a live load rating for vehicular traffic, dropping the bridge below the minimum standards. Further, in January 2015, a 60 foot by 12 inch water main broke off the bridge above the navigational channel and fell into the channel. Although the pipe was later removed, the condition of the bridge remains a hazard.

The demolition of the bridge will start immediately and will take approximate three to five months. Accordingly, there is insufficient time to publish an NPRM and solicit comments

from the public before the demolition takes place. Thus, waiting for a comment period to run would inhibit the Coast Guard's ability to fulfill its mission to keep the ports and waterways safe.

It is crucial to the operation of the waterway that this $21 million-demolition project remains on schedule and is completed before the recreational boating season traffic starts. The commuter ferry service that transits between Weymouth-Hingham and Boston has adapted to another route, adding approximately 10 minutes of time to their scheduled runs. The contractor is expected to remove the 225 foot navigational span first, so that commuter ferries can resume transiting their normal route. The actual removal of the sixteen spans is complex and involves a combination of a controlled detonation and conventional demolition. If the bridge demolition project is delayed up it would have serious ramifications to the waterway stakeholders, especially during the summer boating season when it is heavily used by recreational boaters. Due to the dangers posed by the condition of the bridge and the controlled and conventional demolition of such a large structure over a waterway, the different safety zones are necessary to provide for the safety of any vessels transiting the area. For the safety concerns noted, it is in the public interest to have these regulations in effect immediately and during the demolition phases.

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

B. Basis and Purpose

The legal basis for the temporary rule is 33 U.S.C., 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 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 temporary safety zones are being established to prohibit vessels from transiting the navigational channel until the span is permanently removed and from transiting in the vicinity of the existing Long Island Bridge during the bridge's demolition and removal.

C. Discussion of the Temporary Final Rule

For the reasons discussed above, the COTP is establishing temporary safety zones in the vicinity of the Moon Island Long Island Bridge to ensure the safety of vessels and other property from the hazards associated with the current condition of the bridge and the bridge demolition. The COTP Boston has determined that the actual condition of the bridge and the demolition of such a large structure over the waterway pose a

significant risk to public safety and property. Hazards include the falling of parts from the deteriorated bridge to include large pieces of heavy metal, possible flying fragments from the controlled detonation and the obstructions to the waterway that may contribute to marine casualties, such as crane barges, work vessels, and construction equipment, and large pieces of debris falling into the water that may cause death or serious bodily harm. Establishing a safety zone around the location of the navigational channel until it is permanently removed and during the controlled detonation and the conventional demolition operations will help ensure the safety of vessels and other property and help minimize the associated risks.

The Coast Guard has been coordinating with contractors and local stakeholders regarding the scope of the overall project. The stakeholders that may be affected by this rulemaking have been notified of the risks of transiting this navigational channel and have since modified their ferry routes. They also know the potential impacts to the waterway from this project.

Vessels may enter or transit through the safety zones during the effective period if authorized by the COTP Boston or the designated representative.

The COTP will cause notice of enforcement or suspension of enforcement of the safety zones to be made by all appropriate means to affect the widest distribution among the affected segments of the public. Such means of notification will

include, but is not limited to, Broadcast Notice to Mariners and Local Notice to Mariners.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of 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, 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.

The Coast Guard determined that this rule is not a significant regulatory action for the following reasons: the safety zone for the navigational channel will be of limited duration, expecting to completed by the end February 2015, and the commuter ferries have already rerouted out of safety concerns with the previous falling debris from the bridge and have requested that the navigational bridge span be removed at the earliest stages of the project. This time of the season there is no recreational boating traffic.

Persons and/or vessels may enter the safety zone if they obtain permission from the Coast Guard COTP, Boston.

Notifications will be made to the local maritime community

through the Local Notice to Mariners and Broadcast Notice to Mariners well in advance of the demolition.

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 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.

For all of the reasons discussed in the REGULATORY PLANNING AND REVIEW section, 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.

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.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the

rulemaking process. 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 Mr. Mark Cutter at the telephone number or e-mail address indicated under the FOR FURTHER INFORMATION CONTACT section of this notice.

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 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 State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We

have analyzed this rule under that Order and have 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.lD, 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. This rule 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. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 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.T01-1059 to read as follows:

§ 165.T01-1059 Moon Island - Long Island Bridge Demolition, Boston Inner Harbor – Quincy Bay, Massachusetts.

(a) General. A temporary safety zone is established for the bridge demolition as follows:

(1) Location. The following area is a safety zone: All navigable waters, from surface to bottom, within two hundred (200) yards of the Moon Island - Long Island Bridge, Boston Inner Harbor – Quincy Bay, MA, and enclosed by a line connecting the following points (NAD 83):

Latitude	Longitude
42°18′44″ N	70°58′40″ W; thence to
42°18′33″ N	70°58′31″ W; thence to
42°18′18″ N	70°59′10″ W; thence to
42°18′29″ N	70°59′20″ W; thence to point of origin.

(2) Effective and Enforcement Period. This rule will be effective and enforced from 12:01 a.m. on February 13, 2015 to 11:59 p.m. on December 31, 2015.

(b) General. A temporary safety zone is established for the controlled detonation demolition phase as follows:

(1) Location. The following area is a safety zone: All navigable waters, from surface to bottom, within approximately one thousand (1000) yards of the Moon Island - Long Island Bridge, Boston Inner Harbor – Quincy Bay, Massachusetts, and

enclosed by a line connecting the following points (NAD 83):

Latitude	Longitude
42°18′38″ N	70°58′36″ W; thence to
42°18′30″ N	70°57′37″ W; thence to
42°17′44″ N	70°59′20″ W; thence to
42°18′23″ N	70°59′14″ W; thence to
42°18′41″ N	70°59′54″ W; thence to
42°19′11″ N	70°58′43″ W; thence to point of origin.

(2) Effective and Enforcement Period. This rule will be effective from 12:01 a.m. on February 13, 2015 to 11:59 p.m. on December 31, 2015, however it will be enforced on the actual date(s) of the controlled detonation, to be determined at a later date. Coast Guard Sector Boston will give actual notice to mariners via Local Notice to Mariners and Broadcast Notice to Mariners

(c) Regulations. While this safety zone is being enforced, the following regulations, along with those contained in 33 CFR 165.23, apply:

(1) No person or vessel may enter or remain in this safety zone without the permission of the Captain of the Port (COTP), Sector Boston the COTP's representatives. However, any vessel that is granted permission by the COTP or the COTP's representatives must proceed through the area with caution and operate at a speed no faster than that speed necessary to maintain a safe course, unless otherwise required by the Navigation Rules.

(2) Any person or vessel permitted to enter the security

zone shall comply with the directions and orders of the COTP or the COTP's representatives. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights, or other means, the operator of a vessel within the zone shall proceed as directed. Any person or vessel within the security zone shall exit the zone when directed by the COTP or the COTP's representatives.

(3) To obtain permissions required by this regulation, individuals may reach the COTP or a COTP representative via VHF channel 16 or 617-223-5757 (Sector Boston Command Center) to obtain permission.

(4) Penalties. Those who violate this section are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 1226.

(d) Notification. Coast Guard Sector Boston will give actual notice through the Local Notice to Mariners, Broadcast Notice to Mariners and to mariners for the purpose of enforcement of this temporary safety zone. Also, Sector Boston will notify the public to the greatest extent possible of any period in which the Coast Guard will suspend enforcement of this safety zone.

(e) COTP Representative. The COTP's representative may be any Coast Guard commissioned, warrant, or petty officer or any Federal, state, or local law enforcement officer who has been

designated by the COTP to act on the COTP's behalf. The COTP's representative may be on a Coast Guard vessel, a Coast Guard Auxiliary vessel, a state or local law enforcement vessel, or a location on shore.

Dated: February 13, 2015

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

[FR Doc. 2015-04282 Filed 02/27/2015 at 8:45 am; Publication Date: 03/02/2015]