

DATES: This deviation is effective from November 28, 2000, through November 30, 2000.

FOR FURTHER INFORMATION CONTACT: Judy Yee, Project Officer, First Coast Guard District, at (212) 668-7165.

SUPPLEMENTARY INFORMATION: The Perth Amboy railroad bridge, at mile 0.5, across the Raritan River has a vertical clearance in the closed position of 8 feet at mean high water and 13 feet at mean low water. The existing drawbridge operating regulations are listed at 33 CFR 117.747.

The bridge owner, New Jersey Transit (NJTRANSIT), requested a temporary deviation from the drawbridge operating regulations to facilitate the inspection of the bridge wedge mechanism system at the bridge. This deviation to the operating regulations allows NJTRANSIT to keep the Perth Amboy Bridge in the closed position from 10:30 a.m. on November 28, 2000 through 11 a.m. on November 30, 2000.

The bridge owner did not provide the required thirty-day notice to the Coast Guard for this deviation; however, this deviation was approved because the inspection/repairs are necessary in order to keep the bridge operating and prevent an unscheduled closure due to component failure.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 7, 2000.

Gerald M. Davis,

*Captain, U.S. Coast Guard, Acting
Commander, First Coast Guard District.*

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1-00-240]

RIN 2115-AA97

Safety Zone: Andrew McArdle (Meridian Street) Bridge, Chelsea River, Chelsea, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the Chelsea River for the Andrew McArdle Bridge repairs in all waters 100 yards upstream and 100 yards

downstream from the bridge location. The safety zone temporarily requires a four-hour advance notification by vessels wishing to transit through the zone. The safety zone is needed to protect vessels from the hazards posed during repairs to the bascule floor beams and bridge fender system. It is also needed to allow sufficient time to move the construction barges in and out of the channel for vessel transits during the repair period.

DATES: This rule is effective from Wednesday, October 18, 2000, through Friday, December 8, 2000.

ADDRESSES: Documents as indicated in this preamble are part of docket CGD1-00-240 and 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: Lieutenant (Junior Grade) David Sherry, Waterways Management Division, Coast Guard Marine Safety Office Boston, (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 regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after **Federal Register** publication. Conclusive information about this event was not provided to the Coast Guard until October 12, 2000, making it impossible to publish a NPRM or a final rule 30 days in advance of its effective date. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to regulate a portion of the Chelsea River and protect the maritime public from the hazards associated with bridge repair activities. Additionally, the repair activity takes place only on weekdays from 6:30 a.m. until 5 p.m. and does not close the channel to users.

Background and Purpose

The Andrew McArdle Bridge over the Chelsea River, Chelsea, MA, fender system and bascule floor beams require repairs. During the repair evolution, barges will be moored in the center of the channel. Barge placement requires a four-hour advance notice by vessels wishing to transit the area, to ensure vessel safety.

This regulation establishes a safety zone in all waters of the Chelsea River 100 yards upstream and 100 yards

downstream from the centerline of the Andrew McArdle Bridge. This safety zone prohibits entry into or movement within this portion of the Chelsea River without a four hour advance notice given to personnel on scene. In an effort to maximize commerce during the closures, waterway users were invited to provide input at meetings on the following dates: August 11, 17, 24, and 31, September 7, 14, 21, and 28, and October 5, 2000. The meetings, hosted by Marine Safety Office Boston, were attended by stakeholders and promoted a consensus of the most favorable requirements for bridge repair efforts during the effective period.

The repair work requires a four hour advance notice for passage to minimize lost work time due to setting up, cleaning the site, and assuring safety for ship traffic. The Coast Guard was able to balance this need with community demands through the aforementioned open forum. The group arrived at a consensus between marine operators, the bridge owner, Massachusetts State Highway officials, and construction contractor. The expected duration of the safety zone will be from Wednesday, October 18, 2000 through Friday, December 8, 2000. During the effective dates, the channel will be open with construction on going, but a four-hour notice is required for vessel passage. Notice shall be given to the Andrew McArdle Bridge bridge tender via VHF channel 13. The bridge tender will convey the notice of passage to the construction barge operator. Smaller vessels that can navigate the area without requiring the barges to move are not required to give this notice. The Coast Guard will make Marine Safety Information Broadcasts and Local Notice to Mariners announcements informing mariners of this safety zone.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 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 so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the limited duration of the safety zone and limited commercial traffic expected in the area during the effective periods. Moreover,

commercial operators will receive advance channel closure notification through Port Operators Group meetings, Safety Marine Information Broadcasts and industry dissemination. The early notification will permit mariners ample time to alter voyage plans.

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. “Small entities” may include: (1) Small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields; and (2) governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant 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 or anchor in a portion of the Chelsea River between October 9, 2000 through December 8, 2000.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The Coast Guard will issue maritime advisories before the effective period that will be widely available to users of the river; and the closures are based on waterway user input.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offered to assist small entities in understanding this final rule so that they could better evaluate its effects on them and participate in the rulemaking process. The Coast Guard coordinated meetings on August 11, 17, 24, and 31; September 7, 14, 21, and 28, and October 5, 2000, involving Chelsea River users to gain input and feedback on the construction. The group organized and agreed upon the schedule provided.

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 proposal calls 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 and has determined that this rule does not have federalism implications 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 unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 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 E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 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.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under Figure 2–1, paragraph 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 for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For 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; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T00–240 to read as follows:

§ 165.T00–240 Safety Zone: Andrew McCardle Bridge, Chelsea River, Chelsea, MA.

(a) *Location.* The following area is a safety zone:

All waters of the Chelsea River 100 yards upstream and 100 yards downstream from the centerline of the Andrew McCardle Bridge.

(b) *Effective Dates.* This section is effective Wednesday, October 18, 2000 through Friday, December 8, 2000.

(c) *Regulations.*

(1) The channel will be open with construction on going with a four-hour notice to the Andrew McCardle Bridge bridge tender on VHF channel 13 required for vessel passage.

(2) Entry into or movement within this zone is prohibited without four-hour notification to the Andrew McCardle Bridge bridge tender, unless authorized by the Captain of the Port Boston.

(3) All persons and vessels shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(4) The general regulations covering safety zones in section 165.23 of this part apply.

Dated: October 18, 2000.

J.R. Whitehead,

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

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