

employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

### Collection of Information

This rule would call for no new collection of information requirement under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

### 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. The Coast Guard has analyzed this rule under that order and has determined that this rule does not have implications for federalism.

### 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 or more in any one year. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

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

### 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.

### 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 responsibility between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph 32(e) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

### List of Subjects in 33 CFR Part 117

Bridges.

For reasons set out in the preamble, the Coast Guard amends Part 117 of Title 33, Code of Federal Regulations, as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. In § 117.647, revise paragraph (a), and paragraphs (b), introductory text, (b)(3), and (b)(4); remove paragraph (c); and redesignate paragraphs (d) and (e) as paragraphs (c) and (d), to read as follows:

#### § 117.647 Saginaw River.

(a) The draws of the Lake State Railways railroad bridge, mile 3.10 at Bay City, and the Central Michigan railroad bridge, mile 4.94 at Bay City, shall open on signal; except that, from December 16 through March 15, the draws shall open on signal if at least 12 hours advance notice is provided.

(b) The draws of the Independence bridge, mile 3.88, Liberty Street bridge, mile 4.99, Veterans Memorial bridge,

mile 5.60, and Lafayette Street bridge, mile 6.78, all in Bay City, shall open on signal from March 16 through December 15, except as follows:

\* \* \* \* \*

(3) From 8 a.m. to 8 p.m. on Saturdays, Sundays, and Federal holidays, the draws of the Independence and Veterans Memorial bridges need not be opened for the passage of pleasure craft except from three minutes before to three minutes after the hour and half-hour.

(4) From 8 a.m. to 8 p.m. on Saturdays, Sundays, and Federal holidays, the draws of the Liberty Street and Lafayette Street bridges need not be opened for the passage of pleasure craft, except from three minutes before to three minutes after the quarter hour and three-quarter hour.

\* \* \* \* \*

Dated: July 16, 2002.

**Ronald F. Silva,**

*Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.*

[FR Doc. 02-19136 Filed 7-29-02; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 165

[CGD01-02-096]

RIN 2115-AA97

#### Safety Zone; Chelsea River Safety Zone for McArdle Bridge Repairs, Chelsea River, East Boston, MA

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for the Chelsea River to aid completion of the McArdle Bridge repairs in East Boston, MA. The safety zone will temporarily close all waters 100-yards upstream and downstream of the McArdle Bridge. The safety zone prohibits entry into or movement within this portion of the Chelsea River and is needed to facilitate repair efforts and protect the maritime public from the hazards posed.

**DATES:** This rule is effective from July 18 until August 16, 2002.

**ADDRESSES:** Documents indicated in this preamble 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:** LT David M. Sherry, Marine Safety Office Boston, Waterways Safety and Response Division, at (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 rule. On May 15, 2002, we published in the **Federal Register** a temporary final rule entitled "Safety Zone; Chelsea River Safety Zone for McArdle Bridge Repairs, Chelsea River, East Boston, Massachusetts" (67 FR 34612). That rule expired on July 13, 2002. This rule establishes a safety zone in the same location as the expired safety zone established by the previous rule, to ensure the safety of mariners and vessels in the vicinity of the bridge during repairs. Good cause exists for not publishing an NPRM and for making this rule effective in less than 30 days after **Federal Register** publication. The bridge repairs are taking longer than originally anticipated, and repairs are currently ongoing, making it impossible to draft or publish an NPRM or a final rule 30 days in advance of its effective date. In order to protect the safety of mariners and vessels in the vicinity of the bridge during repairs, this rule is immediately necessary.

The McArdle Bridge repairs were determined necessary as a result of recent inspections by the Massachusetts Highway Department, during which steel grating and support failures on the McArdle Bridge were discovered. Waterway closures in the vicinity of and beneath the bridge are needed because repair equipment and portions of the bridge deck are extending over the waterway, and hotwork (welding and grinding) that shoots sparks over the waterway in the vicinity of the bridge is being conducted. Delaying this work for sufficient time to conduct a public notice rulemaking and advanced publication would be contrary to the public interest for the reasons outlined below.

Preventing the repair work from proceeding places the future operability of the bridge for waterway and roadway use at risk. It would also place at risk the ability of the marine terminals on the Chelsea River to continue to receive vessels. Also, the Massachusetts Highway Department will need to restrict road traffic over the bridge to a certain tonnage if the all repairs are not completed. If the repairs are not completed, road traffic may be completely restricted from the bridge, causing unmanageable traffic situations in Chelsea and East Boston, MA. Thus, it is in the best interest of maintaining

safe marine commerce and avoiding significant road traffic problems that the safety zone be enacted to allow for the work to be completed. For these same reasons, 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**.

This temporary safety zone is only effective for evening periods and will have a minimal impact on vessel transits due to the fact that the zone will be in effect only during night time when recreational boaters do not typically use the waterway, night time commercial vessel transits are already limited by the constraints of the Chelsea Street Bridge under 33 CFR 165, and the commercial users of the Chelsea River have stated that restricting night time use of the waterway during this time of the year will place the least burden on their operations.

**Discussion of Rule**

This rule establishes a safety zone on all waters of the Chelsea River 100-yards upstream and downstream of the McArdle Bridge. The safety zone is in effect from July 18, until August 16, 2002, and will be enforced from sunset until sunrise each day during this period. This safety zone prohibits entry into or movement within this portion of the Chelsea River and is needed to provide the Middlesex Corporation sufficient time to safely complete the necessary repairs, painting, steel support, and grating work. The work is needed to ensure the continued safe operability of the McArdle Bridge. The Captain of the Port does anticipate minimal negative impact on vessel traffic due to this repair work. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

**Regulatory Evaluation**

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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 minimal enough that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this rule prevents traffic from transiting a portion of the Chelsea River during the prescribed periods, the effect of this rule will not be significant for several reasons: the channel will be closed during night time when recreational boaters do not typically use the waterway; many of the commercial vessels are already limited by size to daylight only transits due to the regulations governing the Chelsea Street Bridge under 33 CFR 165.120; and the commercial users of the Chelsea River have stated that restricting night time use of the waterway during this time of the year will not burden their operations.

**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. 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 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 may be small entities: The owners or operators of vessels intending to transit a portion of the Chelsea River from July 18 until August 16, 2002, during sunset to sunrise each day of this period. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The bridge will be closed during night time when recreational boaters do not typically use the waterway; most night time commercial traffic is already limited by the constraints of the regulations governing the Chelsea Street Bridge under 33 CFR 165.120; the commercial users of the Chelsea River have stated that restricting night time use of the waterway during this time of the year will not burden their operations; and the Coast Guard will issue maritime advisories widely available to users of Boston Harbor and the Chelsea River, before the effective period, via marine information broadcasts.

**Assistance for Small Entities**

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 rule would call 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, Federalism, and has determined that this rule does not have implications for federalism 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 costs. This rule would not impose an unfunded mandate.

#### Taking of Private Property

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

#### Protection of Children

The Coast Guard 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 pose an environmental risk to health or risk to safety that may disproportionately affect children.

#### 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.

#### Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2-1, (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 where indicated under

#### ADDRESSES.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### 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 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(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. From July 18 until August 16, 2002 add temporary § 165.T01-096 to read as follows:

#### § 165.T01-096 Safety Zone: Chelsea River Safety Zone for McArdle Bridge Repairs, Chelsea River, East Boston, Massachusetts.

(a) *Location.* The following area is a safety zone: All waters of the Chelsea River 100-yards upstream and downstream of the McArdle Bridge, East Boston, MA.

(b) *Effective Date.* This section is effective from July 18 until August 16,

2002, and will be enforced from sunset until sunrise each day during this period.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the Captain of the Port (COTP) or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: July 18, 2002.

**C.M. DeLeo,**

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

[FR Doc. 02-19241 Filed 7-25-02; 3:11 pm]

BILLING CODE 4910-15-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[WT Docket No. 01-316; FCC 02-203]

### Petitions of Sprint PCS and AT&T for Declaratory Ruling Regarding CMRS Access Charges

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; interpretation.

**SUMMARY:** In this document, the Commission responds to a primary jurisdiction referral from the U.S. District Court for the Western District of Missouri in an action styled *Sprint Spectrum L.P. v. AT&T Corp.* In its referral order, the court asked the Commission to decide two questions: whether Sprint may charge AT&T access fees for use of the Sprint PCS network, and if so, what rate may reasonably be charged for such services. Based on the rules in effect during the period in dispute—from 1998 to the present—the Commission finds that Sprint PCS was not prohibited from charging AT&T access charges, but that AT&T was not required to pay such charges absent a contractual obligation to do so.

**FOR FURTHER INFORMATION CONTACT:** Steven Morris, Wireline Competition Bureau, Pricing Policy Division, (202) 418-1530, or via the Internet at [sfmorris@fcc.gov](mailto:sfmorris@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Declaratory Ruling in WT Docket No.