

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 law 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.

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. Though 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 affect 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 concern 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 and direct effect on one or more Indian tribes, on the relationship between the Federal Governments and Indian tribes, or on the distribution of power and responsibilities 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 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

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are specifically excluded from further analysis and documentation under that section. A “Categorical Exclusion Determination” is available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Add a temporary section, § 100.35–T05–057 to read as follows:

§ 100.35–T05–057 Atlantic Ocean, Atlantic City, New Jersey.

(a) *Definitions.*

(1) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Atlantic City.

(2) *Official Patrol.* The Official Patrol is any vessel assigned or approved by Commander, Coast Guard Group Atlantic City with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participating Vessels.* Participating vessels include all vessels participating in the Atlantic City APBA Grand Prix under the auspices of the Maine Event Application submitted by the New

Jersey Performance Power Boat Club., and approved by the Commander, Coast Guard Group Atlantic City.

(4) *Regulated Area.* All waters of the Atlantic Ocean, adjacent to Atlantic City, New Jersey, bounded by a line drawn between the following points: southeasterly from a point along the shoreline at latitude 39°21'50" N, longitude 074°24'37" W, to latitude 39°20'40" N, longitude 74°23'50" W, thence southwesterly to latitude 39°19'33" N, longitude 074°26'52" W, thence northwesterly to a point along the shoreline at latitude 39°20'43" N, longitude 74°27'40" W, thence northeasterly along the shoreline to latitude 39°21'50" N, longitude 074°24'37" W. All coordinates reference Datum NAD 1983.

(b) *Special local regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Effective dates.* The regulated area is effective from 11:30 a.m. eastern time on September 22, 2001 until 3:30 p.m. eastern time on September 23, 2001.

(d) *Enforcement times.* This section will be enforced from 11:30 a.m. to 3:30 p.m. eastern time on September 22 and 23, 2001.

Dated: August 29, 2001.

Thad W. Allen,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 01–22813 Filed 9–11–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–139]

RIN 2115–AA97

Safety Zone; Chelsea River Blasting, Boston, Massachusetts

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for

the Chelsea River during daylight hours from August 13, until September 22, 2001 in Boston, MA. The safety zone is needed to protect the maritime community from the hazards caused by the detonations of explosives to clear rocks and increase the water depth. The safety zone temporarily closes all waters of the Chelsea River 300 yards around the Great Lakes dredge barge while it is involved in the detonation of explosives in the Chelsea River turning basin. The safety zone prohibits entry into or movement within this portion of the Chelsea River during the effective period without Captain of the Port authorization.

DATES: This rule is effective from 9 a.m., Monday, August 13, 2001 through 7 p.m., Saturday, September 22, 2001.

ADDRESSES: Documents as indicated in this preamble are part of docket CGD01-01-139 and are available for inspection or copying at Marine Safety Office (MSO) 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) Abby Wilcox, Marine Safety Office Boston, Waterways Management Division, at (617) 223-3006.

SUPPLEMENTARY INFORMATION:

Regulatory History

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 publication in the **Federal Register**. Conclusive information about dredging operations requiring explosive detonations on the Chelsea River was not provided to the Coast Guard until August 6, 2001, making it impossible to draft or 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 protect the maritime community from hazards created by detonating explosives in the Chelsea River. General permissions to enter the safety zone will be given via local notice to mariners and marine information broadcasts during periods when the Captain of the Port determines it is safe to transit the zone. Detonations will only take place approximately one to three times per day, Monday through Saturday, during daylight hours of the effective period. The safety zone should have negligible impact on vessel transits because general permissions to transit

the zone will be given when appropriate, the rule is for a limited time period, and vessels are not precluded from using any portion of the waterway outside the safety zone.

Background and Purpose

This regulation establishes a temporary safety zone for the Chelsea River Blasting during daylight hours from August 13, 2001, through September 22, 2001 in Boston, MA. This blasting is being conducted on the eastern bank of the Chelsea River to clear an area of rock and increase the depth of water to 40 feet. The safety zone temporarily closes all waters of the Chelsea River three hundred (300) yards around the Great Lakes dredge barge while it is involved in the detonation of explosives in the Chelsea River turning basin, at a location on the eastern bank approximately 1000 yards north of the Chelsea Street Bridge. Detonations shall occur approximately one to three times per day, Monday through Saturday, during daylight hours of the effective period. Entry into or movement within this portion of the Chelsea River during the effective period is prohibited without Captain of the Port authorization. The safety zone is needed to protect the maritime community from the hazards caused by the detonations of explosives in the Chelsea River. The safety zone should have negligible impact on vessel transits because the Captain of the Port General will grant general permissions to enter the safety zone during periods when the COTP determines it is safe to transit the zone. These general permissions will be communicated 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 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 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of the Chelsea River, the effect of this regulation will not be significant for several reasons: The safety zone should

have negligible impact on vessel transits because the Captain of the Port will grant general permissions to enter the safety zone during periods when the COTP determines it is safe to transit the zone. Detonations will only take place one to three times per day, Monday through Saturday, during daylight hours of the effective period. Moreover, vessels are not precluded from using other portions of the Chelsea River outside the safety zone.

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 or anchor in a portion of the Chelsea River between 9 a.m. on August 13, 2001 and 7 p.m. on September 22, 2001. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the safety zone is limited in duration, and the Captain of the Port will grant general permissions to enter the safety zone during periods when the COTP determines it is safe to transit the zone.

Assistance for Small Entities

Due to the short notice of the need for this regulation the Coast Guard did not have time to assist small entities under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121).

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 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 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. A rule with tribal implications has 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.IC, 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, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–139 to read as follows:

§ 165.T01–139 Safety Zone: Chelsea River Blasting, Boston, Massachusetts.

(a) *Location.* The following area is a safety zone: All waters of the Chelsea River three hundred (300) yards around the Great Lakes dredge barge, at a location on the eastern bank approximately 1000 yards north of the Chelsea Street Bridge.

(b) *Effective date.* This section is effective from 9 a.m. to 7 p.m. each day from Monday, August 13, 2001 through Saturday, September 22, 2001.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone will be 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 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: August 8, 2001.

M.E. Landry,

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

[FR Doc. 01–22814 Filed 9–11–01; 8:45 am]

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DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Parts 1 and 104

[Docket No. 010808202–1202–01]

RIN 0651–AB22

Legal Processes

AGENCY: Office of the General Counsel, United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (“USPTO” or “Office”) is implementing rules relating to civil actions and claims involving the Office. Specifically, the rules provide procedures for service of process, for obtaining Office documents and employee testimony, for indemnifying employees, and for making a claim against the Office under the Federal Tort Claims Act.

DATES: Effective September 12, 2001.

FOR FURTHER INFORMATION CONTACT: Bernard J. Knight, Jr., Deputy General Counsel for General Law, at 703–308–2000.

SUPPLEMENTARY INFORMATION: This rule was proposed in a notice of proposed rulemaking published at 65 FR 80810 on December 22, 2000. Background information on this rule may be found in that notice.

Discussion of Comments

Comment: Proposed section 104.23 purports to prohibit “employees” (which include ex-employees) from giving expert testimony regarding “Office information, subjects, or activities.” In patent infringement actions, it is common for a party to put up an ex-USPTO employee (often a very senior employee, such as a former Commissioner) as an expert witness to explain the procedures of the USPTO to