

Rules and Regulations

Federal Register

Vol. 76, No. 108

Monday, June 6, 2011

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2010–0409]

Regattas and Marine Parades; Great Lakes Annual Marine Events

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce various local regulations for annual regattas and marine parades in the Captain of the Port Detroit zone from 8 a.m. on June 24, 2011 through 6 p.m. on July 31, 2011. This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after regattas or marine parades. This rule will establish restrictions upon, and control movement of, vessels in specified areas immediately prior to, during, and immediately after regattas or marine parades. During the enforcement periods, no person or vessel may enter the regulated areas without permission of the Captain of the Port.

DATES: The regulations in 33 CFR 100.914, 100.915, 100.918, and 100.919 will be enforced at various times between June 24, 2011 and July 31, 2011.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or e-mail LT Katie Stanko, Prevention Department, Sector Detroit, Coast Guard; telephone (313) 568–9508, e-mail Katie.R.Stanko@uscg.mil.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the following special local regulations at the following times:

§ 100.919 International Bay City River Roar, Bay City, MI.

This special local regulation will be enforced from 8 a.m. to 5:30 p.m. on June 24, 2011 and from 9 a.m. to 6 p.m. on June 25 and 26, 2011. In the case of inclement weather on June 26, 2011, this special local regulation will be enforced from 9 a.m. to 6 p.m. on June 27, 2011.

§ 100.914 Trenton Rotary Roar on the River, Trenton, MI.

This special local regulation will be enforced from 2 p.m. to 6 p.m. on July 22, 2011 and from 8 a.m. to 8 p.m. on July 23 and 24, 2011.

§ 100.915 St. Clair River Classic Offshore Race, St. Clair, MI.

This special local regulation will be enforced daily from 10 a.m. to 6 p.m. on July 29, 30 and 31, 2011.

Regulations:

(1) In accordance with the general regulations in 33 CFR 100.901, entry into, transiting, or anchoring within these regulated areas is prohibited unless authorized by the Captain of the Port Detroit, or his designated on-scene representative.

(2) These regulated areas are closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated on-scene representative.

(3) The “designated on-scene representative” of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The designated on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the regulated area shall contact the Captain of the Port Detroit or his designated on-scene representative to obtain permission.

(5) Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the Captain of the Port or his designated on-scene representative.

Dated: May 19, 2011.

J.E. Ogden,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2011–13759 Filed 6–3–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0420]

RIN 1625–AA00

Safety Zone; Chelsea St. Bridge Demolition, Chelsea River, Chelsea, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone within the Sector Boston Captain of the Port (COTP) Zone for the demolition of the Chelsea St. Bridge. This safety zone is necessary to provide for the safety of life on navigable waters during the demolition operations. Entering into, transiting through, mooring or anchoring within this zone is prohibited unless authorized by the COTP or the designated on-scene representative.

DATES: This rule is effective and will be enforced from 7 a.m. on June 6, 2011 to 7 a.m. on June 9, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0420 are available online by going to <http://www.regulations.gov>, inserting USCG–2011–0420 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 temporary rule, call or e-mail MST1 David Labadie of the Waterways Management Division, U.S. Coast Guard Sector Boston; telephone 617–223–3010, e-mail david.j.labadie@uscg.mil. If you have questions on viewing material related to

the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory 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 a notice of proposed rulemaking (NPRM) with respect to this rule because sufficient information regarding the dates of the demolition activities was not received in time to publish a NPRM followed by a final rule as the demolition would occur before the rulemaking process was complete.

The Chelsea Street Bridge will need to be demolished between June 6, and June 9, 2011. It is crucial to the operation of the waterway that this \$127 million-project remains on schedule, beginning with the demolition of the existing bridge. There is a very complex timeline required to be followed to ensure this waterway remains operational, ensuring product delivery vital to New England, namely petroleum products (*e.g.* heating oil and gasoline). If the bridge construction project is held up or off schedule it would have serious ramifications to the waterway stakeholders. Due to the dangers posed by the demolition of such a large structure over a waterway, the safety zone is 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 during the demolition.

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**. Any delay in the effective date of this rule would expose vessels and other property to the hazards associated with demolition of such a large structure over the waterway.

Basis and Purpose

The legal basis for the temporary rule is 33 U.S.C. 1226, 1231, 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; Public Law 107-295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1, which

collectively authorize the Coast Guard to define safety zones.

The safety zone is being issued to establish a temporary limited access area on the Chelsea River around the existing Chelsea St. Bridge during the operations surrounding the bridge's demolition and removal.

Discussion of Rule

This temporary rule is necessary to ensure the safety of vessels and other property from the hazards associated with bridge demolition operations. The COTP Boston has determined that the demolition of such a large structure over the waterway poses a significant risk to public safety and property. Hazards include 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 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 limited access area have been involved with the planning of this project and are aware of the potential impacts to waterway from this project.

Vessels may enter or transit through this safety zone during this time frame if authorized by the COTP Boston or the designated representative.

The COTP will cause notice of enforcement or suspension of enforcement of this safety zone 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.

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.

Executive Order 12866 and Executive Order 13563

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 will be of limited duration, is located in a waterway that has no recreational boating traffic; commercial traffic and potentially affected terminal operators have been consulted and will coordinate their vessels transits to avoid, to the extent possible, any disruptions in normal operations.

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.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have 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 would 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 enter, transit through, moor or anchor in portions of the Chelsea River during bridge demolition operations.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessels will only be restricted from this safety zone for a short duration of time. Persons and/or vessels may enter the safety zone if they obtain permission from the Coast Guard COTP, Boston. Potentially affected waterway users have plans in place to coordinate their vessel transits to avoid, to the extent possible, any disruptions in normal operations. There is no recreational boating traffic located in this waterway.

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.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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 MST1 David Labadie 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.

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

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.

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.

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.

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 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are

technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded 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 is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves the establishment of a safety zone. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under

ADDRESSES.

List of Subjects in 33 CFR Part 165

Marine safety, Navigation (water), Reporting and recordkeeping requirements, 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. 1226, 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.T01–0420 to read as follows:

§ 165.T01–0420 Chelsea St. Bridge Demolition, Chelsea River, Chelsea, Massachusetts.

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

(1) *Location.* All waters of the Chelsea River, from surface to bottom, within the following points (NAD 83):

42°23.10' N, 071°01.26' W.
42°23.15' N, 071°01.20' W.
42°23.10' N, 071°01.17' W.
42°23.07' N, 070°01.24' W.

(2) *Enforcement period.* This rule is effective and will be enforced from 7 a.m. on June 6, 2011 to 7 a.m. on June 9, 2011.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entering into, transiting through, mooring or anchoring within this regulated area is prohibited unless authorized by the Captain of the Port (COTP) Boston, or the designated on-scene representative.

(2) The “on-scene representative” is any Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP Boston to act on his behalf. The on-scene representative will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(3) Vessel operators desiring to enter or operate within the regulated area shall contact the COTP or the designated on-scene representative via VHF channel 16 or 617–223–5750 (Sector Boston command center) to obtain permission to do so.

(4) Vessel operators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP or the designated on-scene representative.

(5) Notice of suspension of enforcement: The COTP Sector Boston may temporarily suspend enforcement of the safety zone. If enforcement is suspended, the COTP will cause a notice of the suspension of enforcement by all appropriate means to affect the widest publicity among the affected segments of the public. Such means of notification may also include, but are not limited to, Broadcast Notice to Mariners and Local Notice to Mariners. Such notification will include the date and time that enforcement is suspended as well as the date and time that enforcement will resume.

Dated: May 24, 2011.

John N. Healey,

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

[FR Doc. 2011–13838 Filed 6–3–11; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2010–5]

Gap in Termination Provisions

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: The Copyright Office is amending its regulations governing notices of termination of certain grants of transfers and licenses of copyright under section 203 of the Copyright Act. The amendments are intended to clarify the recordation practices of the Copyright Office regarding the content of certain notices of termination, and the circumstances under which such notices will be accepted by the Office. In particular, they clarify that the Copyright Office will record section 203 notices of termination of grants for works created after 1977 even when the agreement to make a grant was made before 1978.

DATES: Effective Date: June 6, 2011.

FOR FURTHER INFORMATION CONTACT:

David O. Carson, General Counsel, P.O. Box 70400, Washington, DC 20024.

Telephone: (202) 707–8380. *Telefax:*

(202) 707–8366. All prior **Federal Register** notices and public comments in this docket and a related inquiry are available at <http://www.copyright.gov/docs/termination>.

SUPPLEMENTARY INFORMATION:

Background

The Copyright Act gives authors (and some heirs, beneficiaries and representatives who are specified by statute) the right to terminate certain grants of transfers or licenses within the time frames set forth in the statute and subject to the execution of certain conditions precedent. Termination rights (also referred to as “recapture rights”) are equitable accommodations under the law. They allow authors or their heirs a second opportunity to share in the economic success of their works. These termination rights are codified in sections 203, 304(c), 304(d) and 203 of Title 17 of the United States Code. They do not apply to copyrights in works made for hire or grants made by will. Sections 304(c) and 304(d) establish termination rights for works that had subsisting copyrights on January 1, 1978, the effective date of the 1976 Copyright Act. Section 203, which is the subject of this rulemaking, establishes termination rights for works subject to grants of transfers or licenses made on or after the effective date of the 1976 Copyright Act, but only to the extent they were executed by the author.

The current rulemaking addresses a narrow fact pattern that was also the subject of a related notice of inquiry published March 29, 2010. (75 FR 15390). Through the notice of inquiry, the Office sought comments as to whether or how the termination provisions apply in circumstances where an author agreed to make a grant

prior to January 1, 1978, but the work in question was created on or after January 1, 1978—circumstances raised by some authors and songwriters and their representatives in discussions with the Copyright Office and some congressional offices. Such grants are sometimes called “Gap Grants” in light of a perception that in creating the section 304 termination process and the section 203 termination process, as described above, Congress may have created a “gap” by failing to address circumstances in which authors (or would-be authors) agreed to make grants prospectively, before January 1, 1978, for works they did not create until on or after that date.

In response to the Notice of Inquiry seeking comments on the so-called “gap,” the Copyright Office received sixteen initial comments and nine reply comments. These comments are available online on the Copyright Office Web site, at <http://www.copyright.gov/docs/termination/>. Most concluded that the termination right provided in section 203 of the Copyright Act is applicable to Gap Grants as currently codified, reasoning that a grant is not fully executed under the law until the relevant work has been created. Multiple commenters expanded on this point, observing, in turn, that there can be no author, no copyright interest and no grant of copyright under Title 17 until there is first a work of authorship. One comment, however, urged caution, questioning whether, at least in the case of written grants, Congress intended the date of execution for the purposes of section 203 to mean the date the grant was signed. This view could not apply to grants made orally, but it would mean section 203 cannot apply to any fact patterns in which grants are executed in writing and signed prior to January 1, 1978.

Based on the comments received and its own analysis, the Copyright Office concluded that the better interpretation of the law is that Gap Grants are terminable under section 203, as currently codified, because as a matter of copyright law, a transfer that predates the existence of the copyrighted work cannot be effective (and therefore cannot be “executed”) until the work of authorship (and the copyright) come into existence. In arriving at this conclusion, the Copyright Office looked at the plain meaning of Title 17, including section 203, as well as the legislative history of the termination provisions. It also considered transfer of copyrights and renewal rights under common law, prior to enactment of the termination provisions. *See Analysis of Gap Grants Under the Termination*