

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.

Environment

We have 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. The final rule only involves the operation of an existing drawbridge and will not have any impact to the environment. A "Categorical Exclusion Determination" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 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; Department of Homeland Security Delegation No. 0170; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of P.L. 102-587, 106 Stat. 5039.

■ 2. § 117.727 is revised to read as follows:

§ 117.727 Manasquan River.

The draw of the Route 70 Bridge, mile 3.4, at Riviera Beach, shall open on signal on the hour, except that from 4 p.m. to 7 p.m. Monday through Friday and from 11 p.m. to 7 a.m., every day the draw need not be opened.

Dated: June 3, 2003.

Sally Brice-O'Hara,

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

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09-03-215]

RIN 1625-AA00

Safety Zone; Lake Michigan, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone encompassing a portion of Lake Michigan, Chicago, IL. This safety zone is necessary to protect vessels and spectators from potential airborne hazards during a planned fireworks display over a portion of Lake Michigan. The safety zone is intended to restrict vessel traffic from a portion of Lake Michigan, Chicago, Illinois.

DATES: This temporary final rule is effective from 10 p.m. (local), until 11 p.m. on June 14, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CDG09-03-215 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street, Chicago, Illinois 60627 between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST2 Kenneth Brockhouse, U. S. Coast Guard Marine Safety Office Chicago, at (630) 986-2125.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Similarly, 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**. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks display. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Chicago has determined fireworks launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

The safety zone will encompass all waters of Lake Michigan bounded by the arc of a circle with a 1000 foot radius with its center in approximate position 41° 52'15" N; 087° 36'44" W. These coordinates are based upon North American Datum 1983 (NAD 83). All vessels except those officially participating in this event are prohibited from entering the safety zone without the permission of the Captain of the Port Chicago or his on-scene representative. The on-scene representative will be the Patrol Commander, and may be contacted via VHF Channel 16.

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 this rule under that Order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DOT is unnecessary.

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is in an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered

whether this rule would have a significant 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 would affect the following entities, some of which might be small entities: the owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the zone is only in effect for two hours on the day of the event.

The designated area is being established to allow for maximum use of the waterway for commercial vessels to enjoy the fireworks display in a safe manner. In addition, commercial vessels transiting the area can transit around the area. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects 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 Marine Safety Office Chicago (*see ADDRESSES.*)

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

We have analyzed this rule under Executive Order 13132 and have 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 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 would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

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 has 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.

Environment

We have considered the environmental impact of this rule and concluded that, under figure 2-1, paragraph 32(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying 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.

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.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping 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; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. A new temporary § 165.T09-215 is added to read as follows:

§ 165.T09-215 Safety Zone; Lake Michigan, Chicago, Illinois.

(a) *Location.* The following is a safety zone: All waters of Lake Michigan bounded by the arc of a circle with a 1000-foot radius with its center in approximate position 41°52'15" N; 087°36'44" W (NAD 83).

(b) *Regulations.* This safety zone is being established to protect the boating public during a planned fireworks display. In accordance with the general regulations in § 165.23 of this part, entry into the zone is prohibited unless authorized by the Coast Guard Captain of the Port, Chicago, or the designated Patrol Commander.

(c) *Effective date.* This section is effective from 10 p.m. until 11 p.m. on June 14, 2003.

Dated: May 21, 2003.

Glenn A. Cekus,

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

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POSTAL SERVICE

39 CFR Part 111

Delivery Confirmation and Signature Confirmation Services With First-Class Mail Parcels and Package Services Parcels

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: In this final rule, the Postal Service adopts revisions to the *Domestic Mail Manual* (DMM) that clarify when it is permissible to use Delivery Confirmation service or Signature Confirmation service with mailpieces claimed at First-Class Mail or Package Services rates. In particular, this final rule specifies that, for First-Class Mail and Package Services mailpieces, Delivery Confirmation service or Signature Confirmation service may be used only with parcels and not with letter-size mail or flat-size mail as defined by the Postal Service.

EFFECTIVE DATE: July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Neil Berger at (703) 292-3645, Mailing Standards, United States Postal Service.

SUPPLEMENTARY INFORMATION: In a proposed rule published on April 15, 2003, in the **Federal Register** (68 FR 18174-18176), the Postal Service put forward for public comment revised language to the DMM that would clarify the mailing standards governing the use of Delivery Confirmation service or Signature Confirmation service with First-Class Mail parcel-shaped mailpieces and Package Services parcel-shaped mailpieces. For this clarification, the general term "box," as used in part of the original language of those mailing standards to identify "parcel-shaped" mail, is to be replaced with the specific dimensional definitions of a parcel currently used in DMM C050 for machinable parcels, irregular parcels, and outside parcels.

The term "box" was initially adopted when classification changes extended the use of Delivery Confirmation service and Signature Confirmation service to First-Class Mail parcels only and confined the use of those two special services to Package Services parcels only. Those classification changes took effect on June 30, 2002, as announced

on April 16, 2002, in the **Federal Register** (67 FR 18684-18771).

The term "box" had been carefully selected for the classification changes for two important reasons. First, the term offered a functional and convenient description of a parcel that could be easily understood by the general mailing public, parcel and merchandise shippers, and Postal Service employees at retail units and business mail entry units. Second, the term permitted a wide range of First-Class Mail and Package Services mailpieces—including pieces measuring $\frac{3}{4}$ inch thick or less—to qualify as "parcel-shaped" mail if prepared in boxes. This second reason was also important because most mailpieces measuring $\frac{1}{4}$ inch thick or less are generally categorized as letter-size mail ("letters"), and most mailpieces measuring between $\frac{1}{4}$ and $\frac{3}{4}$ inch thick are generally categorized as flat-size mail ("flats") under DMM C050.

The original mailing standards underlying the term "box," which this final rule now effectively revises, were first presented in sections C100.5.0 and C700.1.0h of Issue 57 of the DMM, dated June 30, 2002. Those original mailing standards permitted the use of either special service with a First-Class Mail mailpiece or a Package Services mailpiece only if the piece met the following conditions:

- a. Has an address side with enough surface area to fit the delivery address, return address, postage, markings and endorsements, and special service label; and
- b. Is in a box or, if not in a box, is more than $\frac{3}{4}$ inch thick at its thickest point.

In the case of First-Class Mail parcels and Package Services parcels, these standards reflected both a customer need and an operational requirement to maintain high rates of successful scanning of Delivery Confirmation barcodes and Signature Confirmation barcodes by segregating the pieces. With these barcodes from letter-size and flat-size mailpieces.

Nevertheless, the use of the term "box" to define a parcel has continued to create uncertainty among customers and Postal Service employees in determining whether specific mailing containers qualify as "boxes" and whether specific mailpieces qualify as "parcel-shaped" mail. This uncertainty comes into play especially for mailpieces prepared in lightly constructed or flimsy containers. These pieces can easily flatten or compress during transportation and mail processing into flat-size pieces or, on occasion for smaller containers, even

into letter-size pieces. Flattened or compressed pieces, even if originally prepared as parcels, no longer meet the intent or the function of parcels. As a consequence, they are not handled in the parcel mailstream. Instead, these pieces are generally processed as flats and, as a result, invariably fail to receive a Delivery Confirmation or Signature Confirmation scan.

One way to remove the uncertainty about the term "box" would be to define a parcel as any mailpiece that is neither letter-size nor flat-size. This approach at first seems relatively straightforward in resolving the uncertainty surrounding the term "box," by providing a practical definition that can be reasonably and uniformly applied as a mailing requirement. Even with a specification such as "any mailpiece thicker than $\frac{3}{4}$ inch is not letter-size or flat-size," customers and employees would encounter two new and unforeseen issues:

- Merchandise items sent as First-Class Mail or Package Services pieces that are thinner than $\frac{3}{4}$ inch thick—such as compact discs, coins in flat plastic display cases, and some children's picture books—would not be eligible for the use of Delivery Confirmation service or Signature Confirmation service because their dimensions of length, height, and, most notably, thickness would generally fall within the dimensional definition of letter-size or flat-size mail.
- Any qualifying mailpiece that passed the thickness requirement (that is, the piece measured more than $\frac{3}{4}$ inch thick) but was not uniformly thick might also be ineligible for the use of either special service if part of the mailpiece could, in some cases, fall within the dimensional requirements for either flat-size mail or letter-size mail.

To overcome these two issues and to ensure that customers and parcel shippers can benefit from the use of Delivery Confirmation service or Signature Confirmation service in such cases, the Postal Service is adopting the current three parcel definitions in DMM C050 for a machinable parcel, an irregular parcel, and an outside parcel for the purposes of defining First-Class Mail parcels and Package Services parcels eligible for the use of Delivery Confirmation service or Signature Confirmation service.

The Postal Service has also added a clarification to the descriptions of Delivery Confirmation service and Signature Confirmation service with information that states that some statutes and regulations governing the mailing of documents with legal significance may require the use of