

Part No.	Document No.	Status
171	None	Rule expired 9/30/2000.
186	D6055.9	Current date 7/29/96.
188	D6050.1	Completely canceled 9/10/98.
194	D2000.9	Current date 1/23/74.

List of Subjects

32 CFR Part 40
Conflict of Interests.

32 CFR Part 42
Law enforcement, National defense, Wiretapping and electronic surveillance.

32 CFR Part 46
Elections, Government employees, Military personnel, Seamen.

32 CFR Part 51
Aged, Civil rights, Education, Equal employment opportunity, Individuals with disabilities, Military personnel, Religious discrimination, Sex discrimination.

32 CFR Part 55
Armed forces reserves, Health care.

32 CFR Part 62
Alcohol abuse, Drug abuse, Government employees, Military personnel.

32 CFR Part 63
Alimony, Child support, Military personnel, Pensions, Reporting and recordkeeping requirements.

32 CFR Part 65
Armed forces, Chaplains.

32 CFR Part 72
Armed forces, Colleges and universities.

32 CFR Part 76
Armed forces reserves.

32 CFR Part 79
Armed forces reserves, Disability benefits, Government employees, Intergovernmental relations, Pensions.

32 CFR Part 89
Government employees, Wages.

32 CFR Part 98
Armed forces, Fraud, Investigations.

32 CFR Part 102
Armed forces reserves.

32 CFR Part 103
Armed forces reserves.

32 CFR Part 111
Armed forces, Elementary and secondary education.

32 CFR Part 114
Archives and records, Armed forces reserves.

32 CFR Part 115
Armed forces reserves.

32 CFR Part 132
Armed forces reserves.

32 CFR Part 157
Classified information.

32 CFR Part 159
Classified information.

32 CFR Part 159a
Classified information.

32 CFR Part 171
Aircraft, Fire prevention.

32 CFR Part 186
Arms and munitions, Civil defense, Hazardous substances, Organization and functions (Government agencies).

32 CFR Part 188
Environmental impact statements.

32 CFR Part 194
Armed forces, Arms and munitions, Defense communications, Foreign relations, International organizations.

PARTS 40, 42, 46, 51, 55, 62, 63, 65, 72, 76, 79, 89, 98, 102, 103, 111, 114, 115, 132, 157, 159, 159a, 171, 186, 188, and 194—[REMOVED]

Accordingly, by the authority of 10 U.S.C. 301, 32 CFR parts 40, 42, 46, 51, 55, 62, 63, 65, 72, 76, 79, 89, 98, 102, 103, 111, 114, 115, 132, 157, 159, 159a, 171, 186, 188, and 194 are removed.

Dated: October 19, 2001.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
[FR Doc. 01-26845 Filed 10-24-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09-01-142]

RIN 2115-AA97

Safety Zone; Lake Michigan, Chicago, IL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

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

DATES: This rule is effective from 8 p.m. (local) October 13, 2001 to 11 p.m. (local) October 27, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD10-01-142] and are available for inspection or copying at Marine Safety Office Chicago, 215 W. 83rd Street, Suite D, Burr Ridge, Illinois 60521, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: MST2 Mike Hogan, U.S. Coast Guard Marine Safety Office, 215 W. 83rd Street, Suite D, Burr Ridge, IL 60521. The telephone number is (630) 986-2175.

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, and under 5 U.S.C. 553(d)(3), 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 necessary 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.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. The safety zone consists of the waters of Lake Michigan within the arc of a circle with a 750-foot radius from the fireworks launch site with its center in the approximate position of 41° 53'18" N, 087° 36'08" W. Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Chicago or the designated Patrol Commander. The designated Patrol Commander on scene may be contacted on VHF Channel 16. All geographic coordinates are North American Datum of 1983 (NAD83).

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). For the same reasons stated below, in the last paragraph of the discussion of Small Entities, the Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

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: the owners or operators of vessels intending to transit or anchor in a portion of Lake Michigan from 8 p.m.

to 11 p.m., October 13, October 20, and October 27, 2001. This regulation would not have a significant economic impact for the following reasons. The regulation is only in effect for only three hours on three days. 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 offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. 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

We have analyzed this rule under Executive Order 13132, Federalism, 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) 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 proposed 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 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.

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation.

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 set out 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. A new temporary § 165.T09–113 is added to read as follows:

§ 165.T09-113 Safety Zone; Lake Michigan, Chicago, IL.

(a) *Location.* The following area is designated a safety zone: the waters of Lake Michigan within the arc of a circle with a 750-foot radius from the fireworks launch site with its center in the approximate position of 41° 53'18" N, 087° 36'08" W. (NAD 1983).

(b) *Enforcement times and dates.* This section will be enforced from 8 p.m. until 11 p.m. (local), on October 13, October 20, and October 27, 2001.

(c) *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 this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Chicago, or the designated Patrol Commander.

Dated: October 12, 2001.

R. E. Seebald,

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

[FR Doc. 01-27051 Filed 10-23-01; 3:04 pm]

BILLING CODE 4910-15-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 00-258; FCC 01-256]

New Advanced Wireless Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adds a mobile allocation to the 2500-2690 MHz band to provide additional near-term and long-term flexibility for use of this spectrum, thereby making this band potentially available for advanced mobile and fixed terrestrial wireless services, including third generation and future generations of wireless systems. This action promotes the continued introduction of fixed wireless broadband services; provides for the introduction of new advanced wireless services to the public, consistent with its obligations under section 706 of the Telecommunications Act; and promotes increased competition among terrestrial services.

DATES: Effective November 26, 2001.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418-2452.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *First Report and Order*, ET Docket No. 00-258, FCC 01-256, adopted September 6,

2001, and released September 24, 2001. The full text of this Commission decision is available on the Commission's Internet site at www.fcc.gov. It is available for inspection and copying during normal business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's duplication contractor, Qualex International, (202) 863-2893, Room CY-B402, 445 12th Street, SW., Washington, DC 20554.

Summary of the First Report and Order

1. In the *Notice of Proposed Rule Making* ("*Advanced Wireless Services NPRM*"), 66 FR 7483, January 23, 2001 in this proceeding, the Commission explored the possibility of introducing advanced wireless services in frequency bands currently used for cellular, broadband Personal Communications Service ("PCS"), and Specialized Mobile Radio services; in certain frequency bands already allocated for Fixed and Mobile services that could be used to deploy new advanced wireless services; and in five other frequency bands: 1710-1755 MHz, 1755-1850 MHz, 2110-2150 MHz, 2160-2165 MHz, and 2500-2690 MHz. Pursuant to its independent spectrum management responsibilities, the Commission undertook a study of the 2500-2690 MHz band. An *Interim Report* regarding this band was issued in November 2000, and a *Final Report* was issued in March 2001.

2. As commenters note, the 2500-2690 MHz band has been used for a number of years to provide one-way analog fixed services and is now being increasingly used to provide two-way digital, including broadband, fixed services. Nationwide deployment of two-way, digital Instructional Television Fixed Service ("ITFS") and Multichannel Multipoint Distribution Services ("MMDS") systems will provide Americans with another option for high-speed broadband access, furthering competition with other service providers such as digital subscriber line ("DSL"), cable modem, or satellite-based services provided by incumbent telephone companies, cable operators, or satellite operators. We will add a mobile allocation to this band in order to provide additional flexibility for use of this spectrum and promote more efficient use, thereby serving the public interest. However, we also conclude that we will not relocate, displace, or otherwise modify incumbent ITFS/MMDS operations. We will rely instead on a market-based approach to introduce additional

flexibility in this band. We note that such additional flexibility will not necessarily result in any change in service offerings in the 2500-2690 MHz band because fixed uses could prove to be more highly-valued by the market than mobile uses.

3. We find that adding a mobile allocation to the 2500-2690 MHz band will further promote the public interest by providing an additional option to service providers in that band. As was stated in our November 1999 *Policy Statement* on principles for reallocation of spectrum: "Flexible allocations may result in more efficient spectrum markets." We recognize that with flexible allocations, spectrum efficiencies can be accomplished in a number of ways. For example, licensees can negotiate among themselves arrangements for avoiding interference rather than relying on mandatory technical rules to control interference; relaxed service rules would allow licensees greater freedom in determining the specific services to be offered; and rules for similar services can be harmonized to provide regulatory neutrality to help establish a level playing field across technologies and foster more effective competition. We have already provided such flexibility in many services, including PCS, Wireless Communications Service, and new services operating on television channels 60-69; and have proposed flexibility in other services, including new services operating on television channels 52-59. In permitting new services to operate on television channels 60-69, we added Fixed and Mobile services to the Broadcasting allocation in the 746-806 MHz band. In our related proceeding that developed service rules for the 746-764 MHz and 776-794 MHz bands, we stated that our goal was "enabling the broadest possible use of this spectrum, consistent with sound spectrum management * * *." We adopted service rules primarily oriented toward fulfilling the need for a variety of fixed and mobile wireless services in those bands, but did not structure the rules to establish a particular service configuration. Rather, the service rules would allow licensees to make determinations respecting the services provided and the technologies to be used, including new broadcast-type services so long as they complied with the technical rules adopted for the bands. In proposing to permit new services to operate on television channels 52-59, we also proposed a co-primary Fixed, Mobile, and Broadcasting allocation to "enable service providers to select the