

Executive Order 13132, "Federalism"

This rule has been examined for its impact under E.O. 13132. It does not contain policies that have federalism implications that would have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government; therefore, consultation with State and local officials is not required.

List of Subjects in 32 CFR Part 199

Claims, Dental health, Health care, Health insurance, Individuals with disabilities, Military personnel.

■ Accordingly, 32 CFR Part 199 is amended as follows:

PART 199—[AMENDED]

■ 1. The authority citation for Part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. Chapter 55.

■ 2. In § 199.2, paragraph (b) is amended by adding a definition for "CAHs" in alphabetical order to read as follows:

§ 199.2 Definitions.

* * * * *
(b) * * *

CAHs. A small facility that provides limited inpatient and outpatient hospital services primarily in rural areas and meets the applicable requirements established by § 199.6(b)(4)(xvi).

■ 3. Section 199.6 is amended by adding new paragraph (b)(4)(xvi).

§ 199.6 TRICARE—authorized providers.

(b) * * *
(4) * * *

(xvi) *CAHs.* CAHs must meet all conditions of participation under 42 CFR 485.601 through 485.645 in relation to TRICARE beneficiaries in order to receive payment under the TRICARE program. If a CAH provides inpatient psychiatric services or inpatient rehabilitation services in a distinct part unit, these distinct part units must meet the conditions of participation in 42 CFR 485.647, with the exception of being paid under the inpatient prospective payment system for psychiatric facilities as specified in 42 CFR 412.1(a)(2) or the inpatient prospective payment system for rehabilitation hospitals or rehabilitation units as specified in 42 CFR 412(a)(3).

* * * * *
■ 4. Section 199.14 is amended by:

- a. Redesignating paragraphs (a)(3) through (a)(5) as (a)(4) through (a)(6), respectively;
- b. Revising newly redesignated paragraph (a)(4) introductory text and the first sentence of paragraph (d)(1); and
- c. Adding new paragraphs (a)(1)(ii)(D)(10), (a)(3), and (a)(6)(iii) and (iv).

The revisions and additions read as follows:

§ 199.14 Provider reimbursement methods.

(a) * * *
(1) * * *
(ii) * * *
(D) * * *

(10) *CAHs.* Effective December 1, 2009, any facility which has been designated and certified as a CAH as contained in 42 CFR Part 485.606 is exempt from the CHAMPUS DRG-based payment system.

* * * * *

(3) *Reimbursement for inpatient services provided by a CAH.* For admissions on or after December 1, 2009, inpatient services provided by a CAH, other than services provided in psychiatric and rehabilitation distinct part units, shall be reimbursed at 101 percent of reasonable cost. This does not include any costs of physician services or other professional services provided to CAH inpatients. Inpatient services provided in psychiatric distinct part units would be subject to the CHAMPUS mental health per diem payment system. Inpatient services provided in rehabilitation distinct part units would be subject to billed charges or set rates.

(4) *Billed charges and set rates.* The allowable costs for authorized care in all hospitals not subject to the CHAMPUS Diagnosis Related Group-based payment system, the CHAMPUS mental health per diem system, or the reasonable cost method for CAHs, shall be determined on the basis of billed charges or set rates. Under this procedure the allowable costs may not exceed the lower of:

* * * * *
(6) * * *

(iii) *Outpatient Services Subject to CAH Reasonable Cost Method.* For services on or after December 1, 2009, outpatient services provided by a CAH, shall be reimbursed at 101 percent of reasonable cost. This does not include any costs of physician services or other professional services provided to CAH outpatients.

(iv) *CAH Ambulance Services.* Effective for services provided on or after December 1, 2009, payment for

ambulance services furnished by a CAH or an entity that is owned and operated by a CAH is the reasonable costs of the CAH or the entity in furnishing those services, but only if the CAH or the entity is the only provider or supplier of ambulance services located within a 35-mile drive of the CAH or the entity as specified under 42 CFR part 413.70(b)(5)(ii).

* * * * *
(d) * * *

(1) *In general.* CHAMPUS pays institutional facility costs for ambulatory surgery on the basis of prospectively determined amounts, as provided in this paragraph, with the exception of ambulatory surgery procedures performed in hospital outpatient departments or in CAHs, which are to be reimbursed in accordance with the provisions of paragraph (a)(6)(ii) or (a)(6)(iii) respectively, of this section. * * *

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Dated: August 21, 2009.

Patricia L. Toppings,
OSD Federal Register Liaison Officer,
Department of Defense.
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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2009-0646]
RIN 1625-AA00

Safety Zone; Upper Mississippi River, Mile 427.2 to 427.6, Keithsburg, IL

AGENCY: Coast Guard, DHS.
ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all waters of the Upper Mississippi River, mile 427.2 to 427.6, extending the entire width of the river near Keithsburg, Illinois. This safety zone is needed to protect persons and vessels from safety hazards associated with a fireworks display occurring over a portion of the Upper Mississippi River. Entry into this zone is prohibited unless specifically authorized by the Captain of the Port Upper Mississippi River or a designated representative.

DATES: This rule is effective from 8 p.m. until 10:30 p.m. CDT on September 5, 2009.

ADDRESSES: Documents indicated in this preamble as being available in the

docket are part of docket USCG–2009–0646 and are available online by going to <http://www.regulations.gov>, inserting USCG–2009–0646 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 Lieutenant Commander (LCDR) Matthew Barker, Sector Upper Mississippi River Response Department at telephone (314) 269–2540, e-mail Matthew.P.Barker@uscg.mil. If you have questions on viewing 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) because doing so and delaying the rule’s effective date would be contrary to public interest. Immediate action is needed to protect vessels and mariners from the safety hazards associated with a fireworks display.

For the same reasons, the Coast Guard also finds under 5 U.S.C. 553(d)(3) that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

On September 5, 2009, the City of Keithsburg, Illinois will be conducting a land based fireworks show between mile 427.2 and 427.6 on the Upper Mississippi River. This event presents safety hazards to the navigation of vessels between mile 427.2 and 427.6, extending the entire width of the river. The Captain of the Port Upper Mississippi River will inform the public of all safety zone changes through broadcast notice to mariners.

Discussion of Rule

The Coast Guard is establishing a safety zone for all waters of the Upper Mississippi River, mile 427.2 to 427.6, extending the entire width of the river. Entry into this zone is prohibited to all vessels and persons except participants and those persons and vessels specifically authorized by the Captain of the Port Upper Mississippi River. This rule is effective from 8 p.m. until 10:30 p.m. CDT on September 5, 2009. The Captain of the Port Upper Mississippi River will inform the public through broadcast notice to mariners of all safety zone changes and enforcement periods.

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.

Regulatory Planning and Review

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. This safety zone is expected to have minimal economic impact because of its small size and short duration.

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 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 the Upper Mississippi River, mile 427.2 to 427.6 between 8 p.m. and 10:30 p.m. CDT on September 5. This safety zone will not have a significant economic impact on a substantial number of small entities because the zone covers a small area and will only be in effect for a short period of time. In addition, notifications to the marine community will be made through broadcast notice to mariners

and the River Industry Bulletin Board (RIBB) at <http://www.ribb.com>.

If you are a small business entity and are significantly effected by this regulation, please contact LCDR Matthew Barker, Sector Upper Mississippi River at (314) 269–2540.

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 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 businesses. 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 or more in any one year. Though this rule will 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.

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.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which 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, because the rule establishes 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

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping 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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 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 temporary § 165.T09-0646 to read as follows:

§ 165.T09-0646 Safety Zone; Upper Mississippi River, Mile 427.2 to 427.6.

(a) *Location.* The following area is a safety zone: All waters of the Upper Mississippi River, from surface to bottom and from Mile 427.2 to 427.6 extending the entire width of the waterway.

(b) *Effective date.* This rule is effective from 8 p.m. until 10:30 p.m. CDT on September 5, 2009.

(c) *Periods of Enforcement.* This rule is effective from 8 p.m. until 10:30 p.m.

CDT on September 5, 2009. The Captain of the Port Upper Mississippi River will inform the public through broadcast notice to mariners of all safety zone changes and enforcement periods.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Upper Mississippi River or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the Captain of the Port Upper Mississippi River or a designated representative. The Captain of the Port Upper Mississippi River representative may be contacted at (314) 269-2332.

(3) All persons and vessels must comply with the instructions of the Captain of the Port Upper Mississippi River or a designated representative. Designated Captain of the Port representatives include United States Coast Guard commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: July 17, 2009.

S.L. Hudson,

Captain, U.S. Coast Guard, Captain of the Port Upper Mississippi River.

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BILLING CODE 4910-15-P

POSTAL REGULATORY COMMISSION

39 CFR Part 3020

[Docket Nos. MC2009-35 and CP2009-54; Order No. 277]

Priority Mail Contract

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adding the Priority Mail Contract 15 to the Competitive Product List. This action is consistent with changes in a recent law governing postal operations. Republication of the lists of market dominant and competitive products is also consistent with new requirements in the law.

DATES: Effective August 31, 2009 and is applicable beginning August 14, 2009.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202-789-6820 or stephen.sharfman@prc.gov.

SUPPLEMENTARY INFORMATION: *Regulatory History*, 74 FR 39121 (August 5, 2009).

I. Introduction
II. Background
III. Comments