

particular vessel to maintain steerageway. A vessel is not proceeding at minimum safe speed if it is:

- (1) On a plane;
- (2) In the process of coming up onto or coming off a plane; or
- (3) Creating an excessive wake.

*State and/or local law enforcement officer* means any State or local government law enforcement officer who has authority to enforce State or local laws.

(b) *Regulated area.* All navigable waters within the Captain of the Port Zone Jacksonville, FL, as described in 33 CFR 3.35–20.

(c) *Regulations.* (1) A 100 yard Security Zone is established around, and centered on each Escorted vessel within the Regulated Area. This is a moving security zone when the Escorted vessel is in transit and becomes a fixed zone when the Escorted vessel is anchored or moored. The general regulations for Security Zones contained in § 165.33 of this part applies to this section.

(2) A vessel in the Regulated Area operating between 100 yards and 500 yards of an Escorted vessel must proceed at the minimum safe speed, unless otherwise required to maintain speed by the navigation rules, and must comply with the orders of the COTP Jacksonville or his designated representative.

(3) Persons or vessels shall contact the COTP Jacksonville to request permission to deviate from these regulations. The COTP Jacksonville may be contacted at (904) 247–7318 or on VHF channel 16.

(4) The COTP will inform the public of the existence or status of Escorted vessels in the Regulated Area by Broadcast Notice to Mariners.

(d) *Effective period.* This section is effective from December 7, 2006, through April 1, 2007.

Dated: December 8, 2006.

**Paul F. Thomas,**

*Captain, U.S. Coast Guard, Captain of the Port Jacksonville.*

[FR Doc. E6–22439 Filed 12–28–06; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

#### RIN 2900–AM28

#### Accrued Benefits

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) amends its adjudication regulation regarding accrued benefits. The amendments are the result of changes in statute and are intended to clarify existing regulatory provisions. This document adopts as final rule, without change, the proposed rule published in the **Federal Register** on June 29, 2006.

**DATES:** *Effective Date:* January 29, 2007.

**FOR FURTHER INFORMATION CONTACT:** Maya Ferrandino, Consultant, Policy and Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7210.

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on June 29, 2006, (71 FR 37027), VA proposed to amend its regulations regarding accrued benefits to clarify existing regulatory provisions and to ensure consistency with section 104 of the Veterans Benefits Act of 2003, Public Law 108–183, which amended 38 U.S.C. 5121, with respect to payment of certain accrued benefits upon the death of a beneficiary.

The public comment period ended on August 28, 2006, and VA received no comments. Based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposed rule as a final rule without change.

#### Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

#### Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule would not affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

#### Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a “significant regulatory action,” requiring review by

the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined to be a significant regulatory action under the Executive Order because it is likely to result in a rule that may raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this proposal are 64.102, Compensation for Service-Connected Deaths for Veterans’ Dependents, 64.104, Pension for Non-Service-Connected Disability for Veterans, 64.105, Pension to Veterans Surviving Spouses, and Children, 64.109, Veterans Compensation for Service-Connected Disability, and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

#### List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits,

Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: December 7, 2006.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

■ For the reasons set out in the preamble, VA amends 38 CFR part 3 (subpart A) as follows:

### PART 3—ADJUDICATION

#### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Amend § 3.1000 as follows:

■ a. In paragraph (a) introductory text, remove “at his death” and add, in its place, “at his or her death”; remove “decisions, or” and add, in its place, “decisions or”; and remove “for a period not to exceed 2 years prior to the last date of entitlement as provided in § 3.500(g)”.

■ b. Redesignate paragraph (a)(4) as paragraph (a)(5).

■ c. Add a new paragraph (a)(4).

■ d. In paragraph (d)(4), add “, in support of a claim for VA benefits pending on the date of death” immediately following “before the date of death”.

■ e. Add paragraph (d)(5).

■ f. Add paragraph (i).

The additions read as follows:

#### § 3.1000 Entitlement under 38 U.S.C. 5121 to benefits due and unpaid upon death of a beneficiary.

(a) \* \* \*

(4) Upon the death of a child claiming benefits under chapter 18 of this title, to the surviving parents.

\* \* \* \* \*

(d) \* \* \*

(5) *Claim for VA benefits pending on the date of death* means a claim filed with VA that had not been finally adjudicated by VA on or before the date of death. Such a claim includes a deceased beneficiary's claim to reopen a finally disallowed claim based upon new and material evidence or a deceased beneficiary's claim of clear and unmistakable error in a prior rating or decision. Any new and material evidence must have been in VA's possession on or before the date of the beneficiary's death.

\* \* \* \* \*

(i) *Active service pay.* Benefits awarded under this section do not include compensation or pension benefits for any period for which the veteran received active service pay.

(Authority: 38 U.S.C. 5304(c).)

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 63

[EPA-HQ-OAR-2004-0357; FRL-8264-2]

RIN 2060-AO03

#### National Emission Standards for Hazardous Air Pollutants: Shipbuilding and Ship Repair (Surface Coating) Operations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on amendments to the national emission standards for hazardous air pollutants (NESHAP) for shipbuilding and ship repair (surface coating) operations (subpart II) promulgated on December 15, 1995 (60 FR 64330), under the authority of section 112(d) of the Clean Air Act (CAA). These direct final rule amendments close an unintended gap in the scope of activities subject to the NESHAP by amending the definition of “ship” to include all marine or freshwater vessels that are either (1) 20 meters or more in length regardless of the purpose for which the vessel is constructed or used, or (2) less than 20 meters in length and designed and built specifically for military or commercial purposes. All shipbuilding and ship repair coating operations performed on “ships,” as so defined, are subject to Subpart II if they take place at an “affected source,” as defined in 40 CFR 63.782. The only exception is that this NESHAP shall not be construed to apply to coating activities that are subject to emission limitations or work practices under the NESHAP for the boat manufacturing at 40 CFR part 63 subpart VVVV. We have also added a definition of “commercial” to further clarify the types of nonmilitary vessels less than 20 meters that we consider to be ships. The amended definition of “ship” renders the term “pleasure craft” unnecessary and the amendments, therefore, eliminate the use of that term in subpart II.

**DATES:** The direct final rule is effective on February 27, 2007 without further notice, unless EPA receives adverse comment by January 29, 2007 or if a public hearing is requested by January 8, 2007. If adverse comments are received or a public hearing is requested, EPA will publish a timely

withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2004-0357 (Legacy No. A-92-11), by one of the following methods:

1. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *E-mail:*

[serageldin.mohamed@epa.gov](mailto:serageldin.mohamed@epa.gov).

3. Fax: (202) 566-1741 and (919) 541-3470.

4. Mail: EPA Docket Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a duplicate copy, if possible.

5. Hand Delivery: Air and Radiation Docket, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B-108, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

We request that a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

**Instructions.** Direct your comments to Docket ID No. OAR-2004-0357. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [www.regulations.gov](http://www.regulations.gov), or e-mail. The EPA EDOCKET and the Federal Web sites are “anonymous access” systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical