

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 Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, 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 there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This rule establishes a security zone.

Under figure 2–1, paragraph (34)(g), of the Instruction, an “Environmental Analysis Check List” and a “Categorical Exclusion Determination” are available in the docket.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, 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; 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 temporary § 165.T05–121 to read as follows:

#### § 165.T05–121 Security Zone; Choptank River, Cambridge, MD.

(a) *Definitions.* For the purposes of this section, *Captain of the Port Baltimore* means the Commander, U.S. Coast Guard sector Baltimore, Maryland and any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Commander, U.S. Coast Guard Sector Baltimore, Maryland to act as a designated representative on his behalf.

(b) *Location.* The following area is a security zone: All waters of the Choptank River, within 500 yards of the Hyatt Regency Chesapeake Bay Golf Resort, Spa and Marina’s Breakwater Pavilion, in approximate position latitude 38° 33.76’ N longitude 076° 02.75’ W (North American Datum of 1983).

(c) *Regulations.* (1) The general regulations governing security zones found in § 165.33 of this part apply to the security zone described in paragraph (b) of this section.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Baltimore or his designated representative. Except for Public vessels and vessels at berth, mooring or at anchor, all vessels in this zone are to depart the security zone.

(3) Persons desiring to transit the area of the security zone must first obtain authorization from the Captain of the Port Baltimore. To seek permission to transit the area, the Captain of the Port Baltimore can be contacted at telephone number (410) 576–2693. The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio, VHF–FM channel 16 (156.8 MHz). Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Baltimore and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from 7 a.m. on January 24, 2007, through 7 a.m. on January 27, 2007.

Dated: December 18, 2006.

**Brian D. Kelley,**

*Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.*

[FR Doc. E6–22441 Filed 12–28–06; 8:45 am]

BILLING CODE 4910–15–P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[COTP JACKSONVILLE 06–276]

RIN 1625–AA87

#### Security Zones; Escorted Vessels in the Captain of the Port Jacksonville Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily establishing security zones around any vessel escorted by one or more Coast Guard, State, or local law enforcement assets within the Captain of the Port Zone Jacksonville, FL. No vessel or person is allowed within 100 yards of an escorted vessel, while within the navigable waters of the Captain of the Port Zone, Jacksonville, FL, unless authorized by the Captain of the Port Jacksonville, FL or designated representative. Additionally, all vessels within 500 yards of an escorted vessel in the Captain of the Port Zone Jacksonville, FL will be required to operate at a minimum speed necessary to maintain a safe course. This action is necessary to protect personnel, vessels, and facilities from sabotage or other subversive acts, accidents, or other events of a similar nature while we undertake a separate, notice-and-comment rulemaking to establish a permanent security zone for escorted vessels in the COTP Jacksonville Zone.

**DATES:** This rule is effective from December 7, 2006, through April 1, 2007.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket, are part of docket (COTP Jacksonville 06–276) and are available for inspection or copying at Coast Guard Sector Jacksonville Prevention Department, 7820 Arlington Expressway, Suite 400, Jacksonville, FL 32211, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Ensign Kira Peterson at Coast Guard Sector Jacksonville Prevention

Department, Florida tel: (904) 232-2640, ext. 108.

#### 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. Security zones around escorted vessels are necessary to ensure the safe transit of the escorted vessels as well as the public. Certain vessel movements are more vulnerable to terrorist acts and it would be contrary to the public interest to publish an NPRM which would incorporate a notice and comment period that would delay the effective date of this regulation.

For the same reasons and 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**.

##### Background and Purpose

The terrorist attacks of September 2001 heightened the need for development of various security measures throughout the seaports of the United States, particularly around vessels and facilities whose presence or movement creates a heightened vulnerability to terrorist acts; or those for which the consequences of terrorist acts represent a threat to national security. Following the attacks of September 11, 2001, the President of the United States found the security of the United States to be endangered (E.O. 13224, 66 FR 49079, September 25, 2001) and the President has continued the national emergencies he declared in 2001 (71 FR 52733, September 7, 2006, continuing the emergency declared with respect to terrorist attacks; and 71 FR 55725, September 22, 2006, continuing the emergency with respect to persons who commit, threaten to commit or support terrorism). Additionally, national security and intelligence officials continue to warn that future terrorist attacks are likely.

King's Bay, GA, and the Ports of Jacksonville, FL, and Canaveral, FL, receive vessels that carry sensitive Department of Defense cargoes as well as foreign naval vessels that require additional safeguards. The Captain of the Port (COTP) Jacksonville has determined that these vessels have a significant vulnerability to subversive activity by vessels or persons within the Jacksonville Captain of the Port Zone, as described in 33 CFR 3.35-20. This rule enables the COTP Jacksonville to provide effective port security, while minimizing the public's confusion and

ease the administrative burden of implementing separate temporary security zones for each escorted vessel. In the near future, the Captain of the Port Jacksonville will publish a notice of proposed rulemaking (NPRM) in the **Federal Register** and seek comments on a proposal to establish a permanent security zone for escorted vessels in the COTP Jacksonville Zone. While that rulemaking is underway, this temporary rule is necessary to continue to ensure security for the Port.

##### Discussion of Rule

This rule prohibits persons and vessels from coming within 100 yards of all escorted vessels within the navigable waters of the Captain of the Port Zone Jacksonville, FL, as described in 33 CFR 3.35-20. No vessel or person may enter within a 100 yard radius of an escorted vessel unless authorized by the Coast Guard Captain of the Port Jacksonville, FL or his designated representative. Persons or vessels that receive permission to enter the security zone must proceed at a minimum safe speed and must comply with all orders issued by the COTP or his designated representative. Additionally, a vessel operating within 500 yards of an escorted vessel must proceed at a minimum speed necessary to maintain a safe course, unless otherwise required to maintain speed by the navigation rules, and must comply with the orders of the COTP Jacksonville or his designated representative.

##### 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 Homeland Security (DHS).

While recognizing the potential impacts to the public, the Coast Guard believes the security zones are necessary for the reasons described above. However, we expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. There is generally enough room for vessels to navigate around these security zones. Where such room is not available and security conditions permit, the Captain of the Port will attempt to provide flexibility for individual vessels as needed.

##### 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 may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit King's Bay and the Ports of Jacksonville and Canaveral in the vicinity of escorted vessels. This rule would not have a significant impact on a substantial number of small entities because the zones are limited in size, leaving in most cases ample space for vessels to navigate around them. The zones will not significantly impact commercial and passenger vessel traffic patterns, and mariners will be notified of the zones via Local Notice to Mariners and marine broadcasts. Where such room is not available and security conditions permit, the Captain of the Port will attempt to provide flexibility for individual vessels to transit through the zones as needed.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would affect it economically.

##### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. 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

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. Although 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 affect 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 would not create an environmental risk to health or risk to safety that might 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 would 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. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a "tribal implication" under the Order.

### 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.

### 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 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 that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final "Environmental

Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under ADDRESSES.

### List of Subjects 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; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T07-276 to read as follows:

#### § 165.T07-276 Security Zones; Escorted Vessels in the Captain of the Port Jacksonville Zone.

(a) *Definitions.* The following definitions apply to this section:

*Designated representatives* means Coast Guard Patrol Commanders including Coast Guard coxswains, petty officers and other officers operating Coast Guard vessels, and federal, state, and local officers designated by or assisting the Captain of the Port (COTP), Jacksonville, Florida, in the enforcement of the regulated navigation areas and security zones.

*Escorted vessel* means a vessel, other than a U.S. naval vessel as defined in § 165.2015 that is accompanied by one or more Coast Guard assets or other Federal, State or local law enforcement agency assets as listed below:

(1) Coast Guard surface or air asset displaying the Coast Guard insignia.

(2) Coast Guard Auxiliary surface asset displaying the Coast Guard Auxiliary insignia.

(3) State and/or local law enforcement asset displaying the applicable agency markings and/or equipment associated with the agency.

*Minimum Safe Speed* means the speed at which a vessel proceeds when it is fully off plane, completely settled in the water and not creating excessive wake. Due to the different speeds at which vessels of different sizes and configurations may travel while in compliance with this definition, no specific speed is assigned to minimum safe speed. In no instance should minimum safe speed be interpreted as a speed less than that required for a

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]

BILLING CODE 4910–15–P

## 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,