

107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–047 is added as follows:

**§ 165.T09–047 Safety zone; Tom Graves Memorial Fireworks, Port Bay, Wolcott, NY.**

(a) *Location.* The following area is a temporary safety zone: All Waters of Port Bay, Wolcott, NY within a five hundred foot radius of position 43°17'46" N, 076°50'02" W, nine hundred feet from Loon Point. [DATUM: NAD 83].

(b) *Effective period.* This regulation is effective from 10 p.m. (local) to 10:30 p.m. (local) on July 3, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo or his on-scene representative.

Dated: June 11, 2007.

**S.J. Ferguson,**

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

[FR Doc. E7–12070 Filed 6–21–07; 8:45 am]

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**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 2**

**RIN 2900–AM66**

**Delegations of Authority: Office of Regulation Policy and Management (ORPM)**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs regulation containing delegations of authority to the Assistant to the Secretary for Regulation Policy and Management. The amendments are intended to reflect changes in delegations of authority and to comply with Executive Order 12866 as recently amended, which requires that the position of Regulatory Policy Officer in each agency be filled by a Presidential Appointee.

**DATES:** *Effective Date:* June 22, 2007.

**FOR FURTHER INFORMATION CONTACT:** Robert C. McFetridge, Assistant to the Secretary for Regulation Policy and Management (00REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–9215.

**SUPPLEMENTARY INFORMATION:** The Office of Regulation Policy and Management (ORPM) provides centralized management and coordination of the rulemaking process in the Department of Veterans Affairs (VA). The office is led by the Assistant to the Secretary for Regulation Policy and Management (ASRPM). This final rule amends the delegations of authority at 38 CFR 2.6(l) for the ASRPM.

On January 18, 2007, the President signed Executive Order 13422, Further Amendment to Executive Order 12866 on Regulatory Planning and Review (72 FR 2763, Jan. 23, 2007). Under section 6(a)(2) of Executive Order 12866 as amended, each agency head was required, within 60 days of the amendment, to designate one of the agency’s Presidential Appointees to the position of Regulatory Policy Officer. The Secretary of Veterans Affairs timely designated the Deputy Secretary of Veterans Affairs as VA’s Regulatory Policy Officer, a position previously delegated in 38 CFR 2.6(l)(3) to the ASRPM, who is not a Presidential Appointee. As this final rule provides, the ASRPM has been delegated authority to serve as the Deputy Regulatory Policy Officer.

The Regulatory Policy Officer is required under section 6(a)(2) of Executive Order 12866 to be involved in each stage of the regulatory process to foster the development of effective, innovative, and least burdensome regulations and to further the principles set forth in the Executive Order. As amended, Executive Order 12866 also requires, in new section 9, that each agency take such steps as are necessary for its Regulatory Policy Officer to ensure the agency’s compliance with

that section’s requirements concerning advance notification of significant guidance documents to the Office of Management and Budget’s Office of Information and Regulatory Affairs.

This final rule amends the delegations of authority for the ASRPM at § 2.6(l) in accordance with recent delegations of authority by the Secretary concerning rulemaking and significant guidance documents. As amended, § 2.6(l)(3) reflects that the ASRPM has been delegated authority to serve as the Deputy Regulatory Policy Officer, to perform staff functions under the Department’s Regulatory Policy Officer, and to perform other delegated functions in accordance with Executive Order 12866.

**Administrative Procedure Act**

This document’s publication as a final rule with no delay in its effective date is pursuant to 5 U.S.C. 553, which exempts matters pertaining to agency organization and internal agency management from its notice-and-comment and delayed effective date requirements.

**Executive Order 12866**

Under the exemption in section 3(d)(3) of Executive Order 12866 for regulations limited to agency organization, management, or personnel matters, this document is not subject to the Executive Order’s review requirements.

**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 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 given year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

**Paperwork Reduction Act of 1995**

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 initial and final regulatory flexibility analysis requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule, because a notice of proposed rulemaking is not required for this rule. Even so, the Secretary hereby certifies that this regulatory amendment will not have a

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

#### Catalog of Federal Domestic Assistance

There are no Catalog of Federal Domestic Assistance program numbers for this rule.

#### List of Subjects in 38 CFR Part 2

Authority delegations (Government agencies).

Approved: June 15, 2007.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

■ For the reasons set forth in the preamble, 38 CFR part 2 is amended as follows:

#### PART 2—DELEGATIONS OF AUTHORITY

■ 1. The authority citation for part 2 continues to read as follows:

**Authority:** 5 U.S.C. 302, 552a; 38 U.S.C. 501, 512, 515, 1729, 1729A, 5711; 44 U.S.C. 3702, and as noted in specific sections.

■ 2. Amend § 2.6 by:

■ a. In paragraph (1)(1), removing “Secretary” and adding, in its place, “Secretary, the Deputy Secretary,”.

■ b. Revising paragraph (1)(3).

The revision reads as follows:

#### § 2.6 Secretary’s delegations of authority to certain officials (38 U.S.C. 512).

\* \* \* \* \*

(1) \* \* \*

(3) To serve as the Deputy Regulatory Policy Officer, to perform staff functions under the Regulatory Policy Officer, and to perform other delegated functions in accordance with Executive Order 12866.

\* \* \* \* \*

[FR Doc. E7–12058 Filed 6–21–07; 8:45 am]

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#### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 75

RIN 2900–AM63

#### Data Breaches

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Interim final rule.

**SUMMARY:** This document establishes regulations to address data breaches

regarding sensitive personal information that is processed or maintained by the Department of Veterans Affairs (VA). The regulations implement certain provisions of Title IX of the Veterans Benefits, Health Care, and Information Technology Act of 2006, which require promulgation of these regulations as an interim final rule.

**DATES:** *Effective Date:* This interim final rule is effective on June 22, 2007. Comments must be received on or before August 21, 2007.

**ADDRESSES:** Written comments may be submitted through

[www.Regulations.gov](http://www.Regulations.gov); by mail or hand-delivery to the Director, Regulations Management (00REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to “RIN 2900–AM63–Data Breaches.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at [www.Regulations.gov](http://www.Regulations.gov).

#### FOR FURTHER INFORMATION CONTACT:

Terry Simmons, Information Technology Specialist, Office of Information Protection and Risk Management (005T), (202) 461–9217, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** This document establishes regulations captioned “Data Breaches” (referred to below as the regulations). The regulations implement 38 U.S.C. 5724 and 5727, which were enacted as part of Title IX of Public Law 109–461, the Veterans Benefits, Health Care, and Information Technology Act of 2006. VA will promulgate regulations to implement 38 U.S.C. 5722 and 5723, which were also enacted as part of Title IX of Public Law 109–461, in a separate rulemaking.

The regulations, which follow the statutory framework set out in section 5724, prescribe a mechanism for taking actions in response to a data breach of sensitive personal information. The finding of a data breach of sensitive personal information normally triggers a risk analysis. A risk analysis provides the basis for a determination as to whether individuals subject to a data

breach will be given notice of the data breach and any other credit protections services authorized by VA. Under section 5724, VA must provide at least one credit protection service upon a finding that a reasonable risk exists for the potential misuse of sensitive personal information involved in a data breach. Consistent with this authority, the regulations require compliance with notification provisions when such finding occurs. The regulations also require that other credit protection services be provided, if warranted, based on the consideration of specified factors.

However, section 5724 does not bar the Secretary from acting promptly to address a data breach without first conducting a risk analysis where the situation dictates. If the information available to the agency indicates that there is an immediate, substantial risk of identity theft of the individuals whose data was the subject of the data breach, the Secretary may notify the record subjects of the breach promptly so that they may take steps to protect themselves, and also may offer them other credit protection services without conducting a risk analysis. Additionally, the Secretary may offer credit protection services to individuals without first performing a risk analysis where a previous risk analysis performed by VA or another Federal agency involving the same or similar data determined that it was appropriate to offer the subject individuals credit protection services, including providing notice of the data breach. Finally, the Secretary may provide an initial notice of the data breach prior to completion of the risk analysis where private entities would be required to provide notice under Federal law if they experienced a data breach involving the same or similar information. In this last situation, the Secretary may provide notice of the breach and subsequently advise individuals whether the agency will offer additional credit protection services upon completion, and consideration of the results, of any risk analysis.

Contents of this regulation, including notification of data breaches which may result in harms other than identity theft, should be interpreted to be consistent with OMB Memorandum M–07–16, “Safeguarding Against and Responding to Breaches of Personally Identifiable Information.” The regulations are set forth as Subpart B in new 38 CFR part 75. Subpart A is reserved.

#### Section 75.111 Purpose and Scope

The purpose and scope section explains that the regulations implement