

the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974.

**Section 202, Public Law 104-4,  
“Unfunded Mandates Reform Act”**

It has been determined that Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate 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 and that such rulemaking will not significantly or uniquely affect small governments.

**Executive Order 13132, “Federalism”**

It has been determined that Privacy Act rules for the Department of Defense do not have federalism implications. The rules do not 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.

**List of Subjects in 32 CFR Part 701**

Privacy.

■ Accordingly, 32 CFR part 701 is amended as follows:

**PART 701—AVAILABILITY OF  
DEPARTMENT OF THE NAVY  
RECORDS AND PUBLICATION OF  
DEPARTMENT OF THE NAVY  
DOCUMENTS AFFECTING THE  
PUBLIC**

■ 1. The authority citation for 32 CFR part 701 continues to read as follows:

**Authority:** Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 552a).

**§ 701.128 [Amended]**

■ 2. In § 701.128, paragraph (f) is removed and reserved.

Dated: October 1, 2010.

**Mitchell S. Bryman,**

*Alternate 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-2010-0509]

**RIN 1625-AA00**

**Safety Zone; IJSBA World Finals,  
Lower Colorado River, Lake Havasu,  
AZ**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone on the navigable waters of Lake Havasu on the lower Colorado River in Arizona in support of the International Jet Sports Boating Association (IJSBA) World Finals. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within this temporary safety zone unless authorized by the Captain of the Port San Diego or his designated representative.

**DATES:** This rule is effective in the CFR on October 6, 2010 through October 10, 2010. This rule is effective with actual notice for purposes of enforcement on October 3, 2010. This rule will remain in effect until October 10, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2010-0509 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0509 in the “Keyword” box, and then clicking “Search.” This material is 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 Petty Officer Shane Jackson, Waterways Management, U.S. Coast Guard Sector San Diego Coast Guard; telephone 619-278-7267, e-mail [Shane.E.Jackson@uscg.mil](mailto:Shane.E.Jackson@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**

On July 6, 2010, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; IJSBA World Finals in the **Federal Register** (75 FR 38754). We received no comments on the proposed rule. No public meeting was requested, and none was held.

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**. The boat races will begin on October 3, 2010, and a safety zone is necessary to protect the participants and spectators. Therefore it would be impracticable to delay the effective date of the final rule.

**Basis and Purpose**

The International Jet Sports Boating Association (IJSBA) is sponsoring the IJSBA World Finals. The event will consist of 300 to 750 personal watercrafts racing in a circular course. The race will be broken down into heats of one to 20. The sponsor will provide five course marshals and rescue vessels, as well as four perimeter safety boats for the duration of this event. This safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway.

**Discussion of Comments and Changes**

The Coast Guard published an NPRM on July 6, 2010, proposing to establish a temporary safety zone on Lake Havasu from October 3 through October 10, 2010. We received no comments, and therefore we are establishing the safety zone as proposed in the NPRM.

**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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This determination is based on the size and location of the

safety zone. This safety zone will be in effect for only one week, and will only be enforced during certain hours each day. Furthermore, vessels can transit safely around the safety zone.

### **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 or anchor in a portion of the lower Colorado River at Lake Havasu from October 3, 2010 through October 10, 2010.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel traffic can pass safely around the zone. Before the effective period, the Coast Guard will publish a local notice to mariners (LNM).

### **Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM 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). 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 (adjusted for inflation) 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 cause 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 M16475.1D, 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 this action is one of a category of actions that 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. This rule involves the establishment of 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 a new temporary § 165.T11–182 to read as follows:

**§ 165.T11–182 Safety Zone; IJSBA World Finals; Lower Colorado River, Lake Havasu, AZ.**

(a) *Location.* The following area is a safety zone: All waters of Lake Havasu, from surface to bottom, encompassed by lines connecting the following points: Beginning at 34°28.49' N, 114°21.33' W; thence to 34°28.55' N, 114°21.56' W; thence to 34°28.43' N, 114°21.81' W; thence to 34°28.32' N, 114°21.71' W; thence along the shoreline returning to 34°28.49' N, 114°21.33' W.

These coordinates are based upon NAD 83.

(b) *Enforcement Period.* This section will be enforced from sunrise to sunset on October 3, 2010 through October 10, 2010. If the International Jet Sports Boating Association World Finals concludes prior to the scheduled termination of the effective period, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *Designated representative* means any Commissioned, Warrant, or Petty Officers of the Coast Guard or Coast Guard Auxiliary, and local, state, and federal law enforcement officers who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Under the general regulations in § 165.23, entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port San Diego or his designated representative.

(2) Mariners desiring to enter or operate in the safety zone may request authorization to do so from the Patrol Commander (PATCOM). The PATCOM

may be contacted on VHF–FM Channel 16.

(3) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel must proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: September 17, 2010.

**P.J. Hill,**

*Commander, U.S. Coast Guard, Acting Captain of the Port San Diego.*

[FR Doc. 2010–25193 Filed 10–5–10; 8:45 am]

**BILLING CODE 9110–04–P**

**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 17**

**RIN 2900–AN15**

**Charges Billed to Third Parties for Prescription Drugs Furnished by VA to a Veteran for a Nonservice-Connected Disability**

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Final rule.

**SUMMARY:** This document amends the medical regulations of the Department of Veterans Affairs (VA) concerning “reasonable charges” for medical care or services provided or furnished by VA to a veteran for a nonservice-connected disability. More specifically, VA amends the regulations regarding charges billed for prescription drugs not administered during treatment by changing the billing formula to reflect VA’s actual drug costs for each drug rather than using a national average drug cost for all prescriptions dispensed. The revised formula for calculating reasonable charges for prescription drug costs will also continue to include an average administrative cost for each prescription. The purpose is to provide VA with a more accurate billing methodology for prescription drugs.

**DATES:** *Effective Date:* This final rule is effective on March 18, 2011.

*Applicability Date:* The final rule will apply to prescriptions filled on or after March 18, 2011.

**FOR FURTHER INFORMATION CONTACT:**

Romona Greene, Manager of Rates and Charges, VHA Chief Business Office (168), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC

20420, (202) 461–1595. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Under 38 U.S.C. 1729, VA has the right to recover or collect reasonable charges for medical care or services (including the provision of prescription drugs) from a third party to the extent that the veteran or the provider of the care or services would be eligible to receive payment from the third party for:

- A nonservice-connected disability for which the veteran is entitled to care (or the payment of expenses of care) under a health plan contract, 38 U.S.C. 1729(a)(2)(D), 38 CFR 17.101(a)(1)(i);
- A nonservice-connected disability incurred incident to the veteran’s employment and covered under a worker’s compensation law or plan that provides reimbursement or indemnification for such care and services, 38 U.S.C. 1729(a)(2)(A), 38 CFR 17.101(a)(1)(ii); or

- A nonservice-connected disability incurred as a result of a motor vehicle accident in a State that requires automobile accident reparations (no-fault) insurance, 38 U.S.C. 1729(a)(2)(B), 38 CFR 17.101(a)(1)(iii).

However, under current 38 CFR 17.101(a)(4), which implements 38 U.S.C. 1729(c)(2)(B), a third-party payer liable for such medical care and services under a health plan contract has the option of paying, to the extent of its coverage, either the billed charges or the amount the third-party payer demonstrates it would pay for care or services furnished by providers other than entities of the United States for the same care or services in the same geographic area.

Prior to the effective date of this document, VA billed for prescription drugs not administered during treatment based on the sum of two components: (1) The national average of VA’s drug costs for all prescriptions, and (2) the national average of VA’s administrative costs associated with furnishing prescription drugs. Further, in accordance with § 17.102(h), prior to the effective date of this document, VA billed \$51 for each prescription filled (see 70 FR 66866, Nov. 3, 2005).

In a document published in the **Federal Register** on July 9, 2009 (74 FR 32819), we proposed to change the billing methodology for prescription drugs not administered during treatment. With respect to the portion of the billing concerning VA’s cost for such prescription drugs, we proposed to bill based on the actual cost to VA of each prescription drug rather than the national average of drug costs for all prescriptions. In this regard, we proposed to bill the total of: