

allows to the attorney as part of its judgment a fee not in excess of 25 percent of the total of past-due benefits to which the claimant is eligible by reason of the judgment, we may pay the attorney the amount of the fee out of, but not in addition to, the amount of the past-due benefits payable. We will not pay directly any other fee your representative may request.

■ 11. Add § 416.1530 to read as follows:

§ 416.1530 Payment of fees.

(a) *Fees allowed by a Federal court.* Commencing February 28, 2005, we will pay a representative who is an attorney, out of your past-due benefits, as defined in § 416.1503, the amount of the fee allowed by a Federal court in a proceeding under title XVI of the Act. The payment we make to the attorney is subject to the limitations described in paragraph (b)(1) of this section.

(b) *Fees we may authorize*—(1) Attorneys and non-attorneys eligible to participate in the direct payment demonstration project. Except as provided in paragraphs (c) and (e) of this section, commencing February 28, 2005, if we make a determination or decision in your favor and you were represented by an attorney or a non-attorney who is eligible to participate in the direct payment demonstration project, as defined in § 416.1517, and as a result of the determination or decision you have past-due benefits, as defined in § 416.1503, we will pay the representative out of the past-due benefits, the smallest of the amounts in paragraphs (b)(1)(i) through (iii) of this section, less the amount of the assessment described in paragraph (d) of this section.

(i) Twenty-five percent of the total of the past-due benefits, as determined before any payment to a State (or political subdivision) to reimburse the State (or political subdivision) for interim assistance furnished you, as described in § 416.525 of this part, and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127 of the Act;

(ii) The amount of past-due benefits remaining after we pay to a State (or political subdivision) an amount sufficient to reimburse the State (or political subdivision) for interim assistance furnished you, as described in § 416.525 of this part, and after any applicable reductions under section 1127 of the Act; or

(iii) The amount of the fee that we set.

(2) *Non-attorneys not eligible to participate in the direct payment demonstration project.* If the representative is a non-attorney who is not eligible to participate in the direct

payment demonstration project, we assume no responsibility for the payment of any fee that we have authorized. We will not deduct the fee from your past-due benefits.

(c) *Time limit for filing request for approval of fee in order to obtain direct payment.* (1) In order to receive direct payment of a fee from your past-due benefits, a representative who is either an attorney or a non-attorney who is eligible to participate in the direct payment demonstration project should file a request for approval of a fee, or written notice of the intent to file a request, at one of our offices within 60 days of the date the notice of the favorable determination is mailed.

(2)(i) If no request is filed within 60 days of the date the notice of the favorable determination is mailed, we will mail a written notice to you and your representative at your last known addresses. The notice will inform you and the representative that unless the representative files, within 20 days from the date of the notice, a written request for approval of a fee under § 416.1525, or a written request for an extension of time, we will pay all the past-due benefits to you.

(ii) The representative must send you a copy of any request made to us for an extension of time. If the request is not filed within 20 days of the date of the notice, or by the last day of any extension we approved, we will pay to you all past-due benefits remaining after we reimburse the State for any interim assistance you received. We must approve any fee the representative charges after that time, but the collection of any approved fee is a matter between you and the representative.

(d) *Assessment when we pay a fee directly to a representative.* (1) Whenever we pay a fee directly to a representative from past-due benefits, we impose an assessment on the representative.

(2) The amount of the assessment is equal to the lesser of:

(i) The product we obtain by multiplying the amount of the fee we are paying to the representative by the percentage rate the Commissioner of Social Security determines is necessary to achieve full recovery of the costs of determining and paying fees directly to representatives, but not in excess of 6.3 percent; and

(ii) The maximum assessment amount. The maximum assessment amount was initially set at \$75, but by law is adjusted annually to reflect the increase in the cost of living. (See §§ 404.270 through 404.277 for an explanation of how the cost-of-living

adjustment is computed.) If the adjusted amount is not a multiple of \$1, we round down the amount to the next lower \$1, but the amount will not be less than \$75. We will announce any increase in the maximum assessment amount, and explain how that increase was determined in the **Federal Register**.

(3) We collect the assessment by subtracting it from the amount of the fee to be paid to the representative. The representative who is subject to an assessment may not, directly or indirectly, request or otherwise obtain reimbursement of the assessment from you.

(e) *Effective dates for extension of direct payment of fee to attorneys.* The provisions of this subpart authorizing the direct payment of fees to attorneys and the withholding of title XVI benefits for that purpose, apply in claims for benefits with respect to which the agreement for representation is entered into before March 1, 2010.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CCGD05-07-023]

RIN 1625-AA00

Safety Zone: Willoughby Point Located on Langley Air Force Base, Back River, Hampton, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in support of the Langley Air Force Base Air Show event occurring on April 27, 28 and 29, 2007 on the Back River in the vicinity of Willoughby Point in Hampton, VA. This action is intended to restrict vessel traffic on Back River as necessary to protect mariners from the hazards associated with the air show.

DATES: This rule is effective from 2 p.m. on April 27, 2007 until 4:30 p.m. on April 29, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05-07-023 and are available for inspection or copying at the Sector Hampton Roads, Norfolk Federal Building, 200 Granby St., 7th Floor, Norfolk, VA 23510, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

Sector Hampton Roads maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the Norfolk Federal Building between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade TaQuitia Winn, Assistant Chief, Waterways Management Division, Sector Hampton Roads, at (757) 668-5580.

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 in the **Federal Register**. This safety zone of short duration is needed to provide for the safety of persons and vessels in the vicinity of the Air Show. Immediate action is needed to protect mariners and vessels transiting the area from the hazards associated with the airplanes flying overhead. However, advance notifications will be made via maritime advisories so mariners can adjust their plans accordingly.

Background and Purpose

On April 27, 28 and 29, 2007, the Langley Air Force Base Air Show event will be held on Back River in the vicinity of Willoughby Point in Hampton, VA. Due to the need to protect mariners and spectators from the hazards associated with the air show, vessel traffic will be temporarily restricted and no vessels may anchor within the following area described below.

Discussion of Rule

The Coast Guard is establishing a safety zone that encompasses all waters within the following area 37°-05'-35" N / 076°-20'-47" W, 37°-05'-46" N / 076°-20'-04" W, 37°-05'-12" N / 076°-19'-59" W, 37°-05'-12" N / 076°-20'-18" W in the vicinity of the Willoughby Point in Hampton, VA. This regulated area will be established in the interest of public safety during the Langley Air Force Base Air Show event and will be enforced from 2 p.m. to 4:30 p.m. on April 27, 28 and 29, 2007.

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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Although this regulation restricts access to the regulated area, the effect of this rule will not be significant because:

(i) The safety zone will be in effect for a limited duration and (ii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

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 because the zone will be in place for a limited duration of time and maritime advisories will be issued allowing the mariners to adjust their plans accordingly. However, this rule may affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in that portion of the Back River from 2 p.m. to 4:30 p.m. on April 27, 28 and 29, 2007.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), 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. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Junior Grade TaQuitia Winn, Assistant Chief, Waterways Management Division, Sector Hampton Roads at (757) 668-5580.

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.

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 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 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 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 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. An "Environmental Analysis Check List" is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting & Record Keeping Requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 Subpart C 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.T05-023, to read as follows:

§ 165.T05-023 Safety Zone: Langley Air Force Base Air Show, Willoughby Point, Hampton, VA.

(a) *Location.* The following area is a safety zone: All waters within the following area of the Back River in the vicinity of Willoughby Point in Hampton, VA, encompassed by a line connecting in 37°-05'-35" N / 076°-20'-47" W, 37°-05'-46" N / 076°-20'-04" W, 37°-05'-12" N / 076°-19'-59" W, 37°-05'-12" N / 076°-20'-18" W.

(b) *Definition.* As used in this section: Designated Representative means Any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, VA, to act on his behalf.

(c) *Regulation.* (1) In accordance with the general regulations in 165.23 of this part, entry into this zone as described in paragraph (a) of this section is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the safety zone must: (i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or

petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads and the Sector Duty Officer at Sector Hampton Roads in Portsmouth, VA, can be contacted at telephone number (757) 668-5555 or (757) 484-8192.

(4) The Captain of the Port or his designated representatives enforcing the safety zone can be contacted on VHF-FM 13 and 16.

(d) *Effective period.* This regulation is effective from 2 p.m. on April 27, 2007, until 4:30 p.m. on April 29, 2007.

(e) *Enforcement period.* This regulation will be enforced from 2 p.m. to 4:30 p.m. on April 27, 28, and 29, 2007.

Dated: March 19, 2007.

Patrick B. Trapp,

Captain, U.S. Coast Guard Captain of the Port, Hampton Roads.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900-AM60

Schedule for Rating Disabilities; Appendices A, B, and C; Correction

AGENCY: Department of Veterans Affairs.
ACTION: Final rule; correction.

SUMMARY: The Department of Veterans Affairs (VA) published a document in the **Federal Register** of March 20, 2007, revising its Schedule for Rating Disabilities, Appendices A, B, and C. The document inadvertently contained two typographical errors, and this document corrects those errors.

DATES: Effective Date: This correction is effective April 19, 2007.

FOR FURTHER INFORMATION CONTACT: Trude Steele, Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-7210.

SUPPLEMENTARY INFORMATION: The VA published a document in the **Federal Register** on March 20, 2007, (72 FR 12983) revising its Schedule for Rating Disabilities, Appendices A, B, and C to include all current diagnostic codes. In FR Doc. E7-4914, published on March