DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP TAMPA–01–129]

RIN 2115–AA97

Security Zone; Port of Tampa, Tampa, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary fixed security zone in all waters in the vicinity of MacDill Air Force Base (AFB). This security zone is needed for national security reasons to protect MacDill AFB from potential subversive acts. Entry into this zone is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida or his designated representative.

DATES: This regulation is effective at 7 a.m. (EDT) on October 24, 2001 and will remain in effect until 7 a.m. (EST) on January 31, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP Tampa 01–129] and are available for inspection or copying at Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606–3598 between 7:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Michael Holland, Coast Guard Marine Safety Office Tampa, at (813) 228–2189 extension 130.

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 a NPRM. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners and place Coast Guard or other law enforcement vessels in the vicinity of these zones to advise mariners of the restriction.

For the same reasons, 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

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to MacDill Air Force Base. This security zone will encompass all waters in the vicinity of MacDill Air Force Base commencing from a point at 27° 50.20′ N/82° 32.14′ W extending 1,000 yards from shore to a point at 27° 49.60′ N/82° 32.14′ W then south-easterly 1,000 yards from shore to a point at 27° 48.90′ N/82° 28.20′ W then circling 1,000 yards from shore to a point at 27° 51.51′ N/82° 28.60′ W then westerly to end at a point at 27° 51.51′ N/82° 29.18′ W. The Coast Guard will issue a broadcast notice to mariners regarding this security zone and what law enforcement vessels will be on-scene enforcing the zone. Entry into this security zone is prohibited, unless specifically authorized by the Captain of the Port, Tampa, Florida 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 Transportation (DOT) (44 FR 11040; February 26, 1979) because this temporary security zone covers a limited area and is only in effect for a limited period of time. Moreover, vessels may be allowed to enter the zone on a case-by-case basis with the permission of the Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. ''Small entities'' include 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 small entities may be allowed to enter on a case by case basis with the authorization of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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 requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

A rule has implication 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect 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.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

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 relationships 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 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 andRegulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports 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. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 6.04–11, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–129 is added to read as follows:

§ 165.T07–129 Security Zone; Port of Tampa, Tampa Florida.

(a) *Regulated area.* The Coast Guard is establishing a temporary fixed security zone in all waters in the vicinity of MacDill Air Force Base commencing from a point at 27° 50.20′ N/82° 32.14′ W extending 1,000 yards from shore to a point at 27° 49.60′ N/82° 32.14′ W then south-easterly 1,000 yards from shore to a point at 27° 48.90′ N/82° 28.20′ W then circling 1,000 yards from shore to a point at 27° 51.51′ N/82° 28.60′ W then westerly to end at a point at 27° 51.51′ N/82° 29.18′ W.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port, or his designated representative. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 13 and 16 (157.1 MHz).

(c) *Dates.* This section becomes effective at 7 a.m. (EDT) on October 24, 2001 and will remain in effect until 7 a.m. (EST) on January 31, 2002.

Dated: October 23, 2001.

A.L. Thompson, Jr.,

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

[FR Doc. 01–29885 Filed 11–30–01; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AJ73

Board of Veterans' Appeals: Rules of Practice—Notice of Appeal in Simultaneously Contested Claim

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Board of Veterans' Appeals (Board) adjudicates appeals from denials of claims for veterans' benefits filed with the Department of Veterans Affairs (VA). This document amends a Board Rule of Practice, pertaining to a type of notice given in simultaneously contested claim appeals, to eliminate an inconsistency between that Rule of Practice and an Appeals Regulation and to update a presumption related to communication of the notice.

DATES: Effective Date: January 2, 2002.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on October 1, 1999 (64 FR 53302), we proposed to amend the Board's Rules of Practice to reconcile conflicting regulatory requirements in 38 CFR 19.102 and 38 CFR 20.502 concerning the information provided to other parties to a contested claim about the appeal of a contesting party. We also proposed to change a presumption concerning the date of furnishing this information .

The only comment that we received raised an objection concerning the presumption. As proposed, the rule would provide a presumption that information about the content of one contesting party's Substantive Appeal was furnished to other contesting parties on the date of the letter from VA that accompanies the information. The date the information is furnished is important because it begins a statutory 30-day time limit for filing a brief or argument in response to a Substantive Appeal.

A national veterans' service organization recommended that the time limit for filing the response begin to run on the date of mailing the information, stating that the ''proposed rule does not take into consideration the time delay of placing mail within the internal mail system of the Department.'' In the alternative, the organization suggested that the rule require that the information and letter be placed ''directly into the U.S. mail system.''

The presumption in this rule has been based on the date of the letter for a number of years and the proposed rule would not change that. It merely would establish the presumption that the information was furnished on the date of the letter, as opposed to the previous presumption that the information was mailed on the date of the letter. The change was proposed specifically to remove the presumption's tie to mailing, inasmuch as the means of communication is not limited to mailing by regulation or statute. The applicable statute, 38 U.S.C. 7105A, merely requires that notice of the substance of the appeal be ''communicated to the other party or parties in interest'' by