

permission to transit the zone except for about 15 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Before the effective period, public notifications will be made via the Local Notice to Mariners and Marine Information Broadcasts, which are widely available to users of the New Jersey Pierhead Channel and Kill Van Kull.

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

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

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.

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 concern 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. A rule with tribal implications has 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.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A “Categorical Exclusion Determination” is available in the docket for inspection or copying where indicated under **ADDRESSES**.

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.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Regulation

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, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–118 to read as follows:

§ 165.T01–118 Safety Zone: Fireworks Display, New Jersey Pierhead Channel and Kill Van Kull.

(a) *Location.* The following area is a safety zone: All waters of the New Jersey Pierhead Channel and Kill Van Kull within a 180-yard radius of the fireworks barge in approximate position 40°39'13.5" N, 074°04'39.1" W (NAD 1983), about 125 yards southeast of the New Jersey Pierhead South Entrance Lighted Gong Buoy 1 (LLNR 37010).

(b) *Effective period.* This section is effective from 9:15 p.m. until 10:45 p.m. on July 25, 2001.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. 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.

Dated: July 12, 2001.

P.A. Harris,

Captain, U.S. Coast Guard, Acting Captain of the Port, New York.

[FR Doc. 01–18244 Filed 7–20–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AK52

Rules of Practice: Medical Opinions From the Veterans Health Administration

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule with request for comments.

SUMMARY: This document amends the Department of Veterans Affairs' (VA) Appeals Regulations to clarify that the Board of Veterans' Appeals (Board) may obtain medical opinions from health care professionals in VA's Veterans Health Administration.

DATES: *Effective Date:* This interim final rule is effective July 23, 2001.

Comment Date: Comments must be received on or before September 21, 2001.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154,

Washington, DC 20420; or fax comments to (202) 273-9289; or e-mail comments to OGCRegulations@mail.va.gov. Comments should indicate that they are submitted in response to "RIN 2900-AK52." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Steven L. Keller (01C), Senior Deputy Vice Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202-565-5978).

SUPPLEMENTARY INFORMATION: The Board of Veterans' Appeals (Board) is an administrative body that decides appeals from denials of claims for veterans' benefits. The Board's 59 Members decide about 35,000 to 40,000 cases per year.

For the purpose of deciding appeals, the Board sometimes obtains medical opinions from the Veterans Health Administration (VHA), the part of VA that provides medical treatment to veterans. The Board's current rules of practice at 38 CFR 20.901(a) state that "[t]he Board may obtain a medical opinion from the Chief Medical Director of the Veterans Health Administration of the Department of Veterans Affairs on medical questions involved in the consideration of an appeal when, in its judgment, such medical expertise is needed for equitable disposition of an appeal." This provision has always been intended to reflect that the Board may obtain medical opinions from appropriate health care professionals in VHA. However, there has been some confusion as to whether this provision permitted the Board to obtain a medical opinion from an individual in VHA other than the Under Secretary for Health (the title of Chief Medical Director was changed to Under Secretary for Health). This document amends the rules of practice at § 20.901(a) by deleting the reference to "Chief Medical Director" and by clarifying that the Board may obtain medical opinions from appropriate health care professionals in VHA.

Under 38 U.S.C. 7109 and 38 CFR 20.901(d), the Board can request an expert medical opinion, in addition to that available within the Department. Under 38 CFR 20.901, the Board can also request opinions from the "Chief Medical Director," *id.* 20.901(a); the Armed Forces Institute of Pathology, *id.* 20.901(b); and the Department's General Counsel, *id.* 20.901(c). The U.S. Court of Appeals for Veterans Claims has both

recognized the Board's authority to seek a medical opinion under 38 CFR 20.901(a), *Perry v. Brown*, 9 Vet. App. 2, 6 (1996), and, in a 1998 case, noted that the Board's authority to obtain an expert medical opinion irrespective of 38 U.S.C. 7109 was "uncontested." *Winsett v. West*, 11 Vet. App. 420, 426 (1998), *aff'd*, 217 F.3d 854 (Fed. Cir. 1999) (unpublished decision), *cert. denied*, 120 S.Ct. 1251 (2000).

The Board has been using VHA medical opinions under 38 CFR 20.901(a) for many years. For example, from Fiscal Year (FY) 1993 through FY 1999, Board Members requested 1,235 such opinions. Reports of the Chairman, Board of Veterans' Appeals, Fiscal Years 1993-1999. In FY 1999, the Board requested 482 advisory opinions from VHA physicians, compared with 100 requests from non-VA medical experts under 38 U.S.C. 7109. Report of the Chairman, Board of Veterans' Appeals, Fiscal Year 1999 at 23.

Advisory opinions requested from VHA physicians have typically been provided in a much more timely manner than those obtained from non-VA physicians and generally have been well-reasoned, succinctly stated, and fully responsive to the questions asked by the Board. Additionally, the thoroughness and specificity of many VHA advisory opinions have provided sufficient information to allow the Board Members to issue final decisions without the need to remand cases to the regional offices to obtain the same information. As a result, this process reduces the time a veteran must wait for a final resolution of the appeal.

Since 1995, this process has been memorialized in a VHA "Directive," which allocates the responsibilities between VHA and the Board. VHA Directive 10-95-040 (Apr. 17, 1995); VHA Directive 2000-049 (Dec. 13, 2000). The latter directive, which replaces the former, may be found on VA's internet site at <http://www.va.gov/publ/direc/health/direct/12000049.pdf>.

This interim final rule concerns rules of agency procedure and practice. Accordingly, under the provisions of 5 U.S.C. 553, we are dispensing with prior notice and comment and a delayed effective date.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

Regulatory Flexibility Act

The Secretary hereby certifies that this interim 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 rule will affect VA beneficiaries and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this interim final rule is exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Veterans.

Approved: July 9, 2001.

Anthony J. Principi,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 20 is amended as set forth below:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

2. Section 20.901(a) is revised to read as follows:

§ 20.901 Rule 901. Medical opinions and opinions of the General Counsel.

(a) *Opinion from the Veterans Health Administration.* The Board may obtain a medical opinion from an appropriate health care professional in the Veterans Health Administration of the Department of Veterans Affairs on medical questions involved in the consideration of an appeal when, in its judgment, such medical expertise is needed for equitable disposition of an appeal.

(Authority: 38 U.S.C. 5107(a))

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[FR Doc. 01-18172 Filed 7-20-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 573

[Docket No. NHTSA-2001-10145]

RIN 2127-AI23

Motor Vehicle Safety; Reporting the Sale or Lease of Defective or Non-Compliant Tires

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.
