

**List of Subjects in 30 CFR Part 913**

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 11, 2002.

**Charles E. Sandberg,**

*Acting Regional Director, Mid-Continent Regional Coordinating Center.*

For the reasons set out in the preamble, 30 CFR part 913 is amended as set forth below:

**PART 913—ILLINOIS**

1. The authority citation for part 913 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 913.15 is amended in the table by adding a new entry in chronological order by "Date of final publication" to read as follows:

**913.15 Approval of Illinois regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
October 15, 2001	May 17, 2002	62 IAC 1700.11(a), (b); 1700.12(a), (d); 1773.12; 1773.13; 1773.15(a), (b), (c); 1777.17; 1778.15(e); 1780.21(a), (b), (e), (f), (g), (i), (j); 1784.14(a), (e); 1785.23(d), (e); 1800.11(a); 1800.40(a), (c), (d), (e); 1816.41(c), (d), (e); 1816.113(b); 1816.116(a); 1816.117(a), (c), (d), (e); 1816.190(b); 1817.64; 1817.66(b); 1817.113(b); 1817.116(a); 1817.117(a), (c), (d), (e); 1825.14(a), (b), (e); 1843.13(a), (c), (d); 1846.17(b); 1847.3(a), (b), (e), (f), (i), (j); 1847.9.

3. Section 913.17 is amended by revising the section heading to read as follows:

**913.17 State regulatory program provisions and amendments not approved.**

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[FR Doc. 02-12461 Filed 5-16-02; 8:45 am]

**BILLING CODE 4310-05-P**

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 165**

[CGD01-01-188]

RIN 2115-AA97

**Safety and Security Zones; High Interest Vessel Transits, Narragansett Bay, Providence River, and Taunton River, RI**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule; change in effective period.

**SUMMARY:** The Coast Guard is extending the effective period of the safety and security zones published on December 12, 2001. This change will extend the effective date of the temporary final rule from June 15, 2002, until September 15, 2002, allowing adequate time for the Coast Guard to develop a permanent rule. This rule will continue to prohibit vessels from entering into these prohibited zones unless authorized by the Captain of the Port, Providence, Rhode Island, or an authorized representative.

**DATES:** The amendment to § 165. T01-188 is effective May 17, 2002. Section 165.T01-188, added at 66 FR 64144, December 12, 2001, effective October 6, 2001 until June 15, 2002, is extended in effect until September 15, 2002.

**ADDRESSES:** Documents as indicated in this preamble are available for inspection and copying at Marine Safety Office Providence, 20 Risho Avenue, East Providence, Rhode Island between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** LT David C. Barata, at Marine Safety Office Providence, at (401) 435-2335.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On December 12, 2001, we published a temporary final rule (TFR) entitled "Safety And Security Zones: High Interest Vessel Transits, Narragansett Bay, Providence River, and Taunton River, Rhode Island" in the **Federal Register** (66 FR 64144). The effective period for this rule was from October 6, 2001, through June 15, 2002.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(3), the Coast Guard finds that good cause exists for not publishing an NPRM. The original TFR was urgently required to prevent possible terrorist strikes against high interest vessels within and adjacent to Rhode Island Sound, Narragansett Bay, and the Providence and Taunton Rivers. It was anticipated that we would assess the security environment at the end of the effective period to determine whether continuing

security precautions were required and, if so, propose regulations responsive to existing conditions. We have determined the need for continued security regulations exists. The Coast Guard will utilize the extended effective period of this TFR to engage in notice and comment rulemaking to develop permanent regulations tailored to the present and foreseeable security environment within the Captain of the Port (COTP) Providence Zone.

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 measures contemplated by the rule were intended to facilitate ongoing response efforts and prevent future terrorist attack. The Coast Guard will be publishing a NPRM to establish permanent safety and security zones that are temporarily effective under this rule. This revision preserves the status quo within the Port while permanent rules are developed. Since the start of the effective date of this regulation in October, 2001, approximately six high interest vessel transits have occurred under these temporary regulations. Disruptions to waterway users have been minimal and no complaints have been received.

**Background and Purpose**

Terrorist attacks against the World Trade Center in Manhattan, New York on September 11, 2001 inflicted catastrophic human casualties and property damage. The threat of terrorism remains high. We believe that high interest vessels continue to require a higher degree of security than was

provided by Federal regulations prior to September 11, 2001. The temporary rule is only effective until June 15, 2002. The Coast Guard is extending the effective date of this rule until September 15, 2002, to allow the establishment of permanent safety and security zones by notice and comment rulemaking.

### 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). The sizes of the zones are the minimum necessary to provide adequate protection for high interest vessels and their crews, other vessels operating in the vicinity of high interest vessels and their crews, adjoining areas, and the public. The entities most likely to be affected are commercial vessels transiting the main ship channel en route the upper Providence River and Taunton River and pleasure craft engaged in recreational activities and sightseeing. The safety and security zones will prohibit any commercial vessels from meeting or overtaking a high interest vessel in the main ship channel, effectively prohibiting use of the channel. However, the zones will only be effective during the vessel transits, which will last for approximately three hours, and vessels may transit ahead or astern of the zones. In addition, vessels are able to safely transit around the zones while a vessel is moored or at anchor in Rhode Island Sound. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting high interest vessels, their crews, and the public. Approximately six high interest vessels have transited under these temporary regulations since October 6, 2001. In each case, commercial and recreational vessels have been able to safely transit around the zones with minimal disruption.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses and 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 the main ship channel in Narragansett Bay, Providence River, and the Taunton River at the same time as high interest vessels. The safety and security zones will not have a significant economic impact on a substantial number of small entities for several reasons. Small vessel traffic can pass safely around the area and vessels engaged in recreational activities, sightseeing and commercial fishing have ample space outside of the safety and security zones to engage in these activities. When a high interest vessel is at anchor, vessel traffic will have ample room to maneuver around the safety and security zones. Although this regulation prohibits simultaneous use of the channel, the outbound or inbound transit of a high interest vessel will last a maximum of three hours and marine advisories will be issued prior to transit of a high interest vessel. In addition, vessels may transit ahead or astern of the safety and security zones. While a high interest vessel is moored, commercial traffic and small recreational traffic may request to move through the safety and security zones with the patrol commander. Before the effective period, maritime advisories will be issued to users of the area.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization would be affected by this rule and you have questions concerning its provisions or options for compliance, please call LT David C. Barata, at (401) 435-2335. 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 under the Paperwork Reduction Act (44 U.S.C. 3501-3520.).

### Federalism

We have analyzed this action under Executive Order 13132, Federalism, 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 having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

### 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 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, because it does not have a substantial direct effect on one or more Indian tribe, 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 has considered the environmental impact of implementing

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. 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, Security Measures, Waterways.

For the reasons set out 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. Revise temporary § 165.T01-188(b) to read as follows:

**§ 165.T01-188 Safety and Security Zones: High Interest Vessel Transits, Narragansett Bay, Providence River, and Taunton River, Rhode Island.**

\* \* \* \* \*

(b) *Effective date.* This rule is effective from October 6, 2001, through September 15, 2002.

\* \* \* \* \*

Dated: April 24, 2002.

**Mark G. VanHaverbeke,**

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

[FR Doc. 02-12422 Filed 5-17-02; 8:45 am]

**BILLING CODE 4910-15-P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

**RIN 2900-AK32**

### Medical Benefits Package; Copayments for Extended Care Services

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends VA's medical regulations by adding the following extended care services to the medical benefits package: noninstitutional adult day health care, noninstitutional geriatric evaluation, and noninstitutional respite care. Also, this document amends VA's medical regulations to establish provisions regarding copayments for extended care services. These actions implement provisions of the Veterans Millennium Health Care and Benefits Act.

**DATES:** Effective Date: June 17, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Daniel Schoeps, Geriatrics and Extended Care (114), at (202) 273-8540 for issues regarding the medical benefits package, and Nancy Howard, Revenue Office (174), at (202) 273-8198 for issues regarding copayments for extended care services. Both are officials in the Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420.

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on October 4, 2001 (66 FR 50594), we proposed to amend VA's medical regulations at 38 CFR 17.38 by adding the following extended care services to the medical benefits package for veterans enrolled in the VA healthcare system: noninstitutional adult day health care, noninstitutional geriatric evaluation, and noninstitutional respite care. In the same document we also proposed to amend VA's medical regulations at 38 CFR 17.111 to establish provisions regarding copayments for extended care services.

We provided a 60-day comment period that ended December 3, 2001. We received five comments. The issues raised by the commenters are discussed below. Based on the rationale set forth in the proposed rule and this document, we are adopting the provisions of the proposed rule subject to clarifying changes and other changes discussed below.

#### Medical Benefits Package

One commenter indicated that the provisions regarding noninstitutional

adult day health care and noninstitutional respite care should indicate that VA will pay for enrolled veterans through contract where services in VA facilities are not available. No changes are made based on this comment. VA's decisions whether to provide noninstitutional adult day health care and noninstitutional respite care by contract depend on many factors such as the availability of VA and contract services, the veteran's needs, and limitations in VA's statutory authority (38 U.S.C. 1703, 1720B, and 8153). Within these limitations, VA will attempt to provide this care by contract where it is not available in VA facilities.

#### Copayments for Extended Care Services

The Veterans Millennium Health Care and Benefits Act (Pub.L. 106-117) established provisions regarding copayments for extended care services provided to veterans by VA. These provisions are set forth at 38 U.S.C. 1710B.

The final rule states that, with certain exceptions, as a condition of receiving extended care services, a veteran must agree to pay VA a copayment. This restates statutory provisions at 38 U.S.C. 1710B. The final rule provides that the following extended care services are subject to the corresponding copayment amount per day:

- (i) Adult day health care—\$15.
- (ii) Domiciliary care—\$5.
- (iii) Institutional respite care—\$97.
- (iv) Institutional geriatric evaluation—\$97.
- (v) Non-institutional geriatric evaluation—\$15.
- (vi) Non-institutional respite care—\$15.
- (vii) Nursing home care—\$97.

One commenter asserted that the copayment for adult day health care should be \$5 to \$7 per day based on her conclusion that the \$15 amount would be more than some would be able to pay. One commenter noted that domiciliary care "is restricted to veterans with very low incomes" and asserted that the proposal to charge \$5 per day is too high. Three commenters expressed concern about whether low-income veterans would forgo nursing home care because of the \$97 copayment amount per day. No changes are made based on these comments. Statutory provisions at 38 U.S.C. 1710B require that VA establish copayment amounts for extended care services. Under the final rule a veteran has no copayment obligation for the first 21 days of extended care services in any 12-month period from the date extended care services began. Further, for each