

**DEPARTMENT OF HOMELAND SECURITY****Coast Guard****33 CFR Part 165****[Docket No. USCG–2008–1017]****RIN 1625–AA11****Regulated Navigation Areas; Bars Along the Coasts of Oregon and Washington****AGENCY:** Coast Guard, DHS.**ACTION:** Proposed rule; notice of reopening of comment period; request for comments.

**SUMMARY:** The Coast Guard announces the reopening of the comment period to receive comments on the notice of proposed rulemaking (NPRM) entitled “Regulated Navigation Areas; Bars Along the Coasts of Oregon and Washington” that was published in the *Federal Register* on February 12, 2009. As stated in the NPRM, the Coast Guard proposes to establish Regulated Navigation Areas (RNA) covering specific bars along the coasts of Oregon and Washington that will include procedures for restricting and/or closing those bars as well as additional safety requirements for recreational and small commercial vessels operating in the RNAs. The RNAs are necessary to help ensure the safety of the persons and vessels operating in those hazardous bar areas. The RNAs will do so by establishing clear procedures for restricting and/or closing the bars and mandating additional safety requirements for recreational and small commercial vessels operating in the RNAs when certain conditions exist.

**DATES:** The comment period for the proposed rule published on February 12, 2009 (74 FR 7022), is reopened and will close on June 30, 2009. All comments and related material must be received by the Coast Guard on or before June 30, 2009.

**ADDRESSES:** You may submit written comments identified by docket number USCG–2008–1017 using any one of the following methods:

(1) *Federal eRulemaking Portal:* <http://www.regulations.gov>.

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except

Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. Our online docket for this rulemaking is available on the Internet at <http://www.regulations.gov> under docket number USCG–2008–1017. For instructions on submitting comments, see the “Public Participating and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section below.

**FOR FURTHER INFORMATION CONTACT:** If you have questions concerning the proposed rule, please call or e-mail LCDR Emily Saddler, Thirteenth Coast Guard District, Prevention Division, Inspections and Investigations Branch; telephone 206–220–7210, e-mail [Emily.C.Saddler@uscg.mil](mailto:Emily.C.Saddler@uscg.mil). If you have questions on viewing or submitting material to the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:****Background and Purpose**

We published an NPRM in the *Federal Register* on February 12, 2009 (74 FR 7022), entitled “Regulated Navigation Areas; Bars Along the Coasts of Oregon and Washington.” On April 13, 2009 (74 FR 16814), we published a notice of public meetings and the reopening of the comment period to April 14, 2009.

In the NPRM, we propose to establish Regulated Navigation Areas (RNA) covering specific bars along the coasts of Oregon and Washington that will include procedures for restricting and/or closing those bars as well as additional safety requirements for recreational and small commercial vessels operating in the RNAs. The RNAs are necessary to help ensure the safety of the persons and vessels operating in those hazardous bar areas. The RNAs will do so by establishing clear procedures for restricting and/or closing the bars and mandating additional safety requirements for recreational and small commercial vessels operating in the RNAs when certain conditions exist.

**Public Participation and Request for Comments**

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–1017), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, or by fax, mail or hand

delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, select the Advanced Docket Search option on the right side of the screen, insert “USCG–2008–1017” in the Docket ID box, press Enter, and then click on the balloon shape in the Actions column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

You may view the NPRM in our online docket, in addition to supporting documents prepared by the Coast Guard, including an “Environmental Analysis Checklist” and RNA Fact Sheets for recreational, passenger, and commercial fishing vessels, and comments submitted thus far by going to <http://www.regulations.gov>. Once there, select the Advanced Docket Search option on the right side of the screen, insert USCG–2008–1017 in the Docket ID box, press Enter, and then click on the item in the Docket ID column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or the Thirteenth Coast Guard District, Prevention Division, Inspections and Investigations Branch in Room 3506 on the 35th floor of the Jackson Federal Building, 915 Second Avenue, Seattle, WA 98174, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

We encourage you to participate in this rulemaking by submitting comments via one of the methods listed under **ADDRESSES**. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Comments must reach the Coast Guard on or before June 30, 2009. If you

submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility.

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Dated: April 27, 2009.

J.P. Currier,

Rear Admiral, U.S. Coast Guard Commander,  
Thirteenth Coast Guard District.

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 21

#### RIN 2900-AN13

#### Vocational Rehabilitation and Employment Program—Basic Entitlement; Effective Date of Induction Into a Rehabilitation Program; Cooperation in Initial Evaluation

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

**SUMMARY:** This document proposes to amend the vocational rehabilitation and employment regulations of the Department of Veterans Affairs (VA). Specifically, it proposes to amend provisions concerning: individuals' basic entitlement to vocational rehabilitation benefits and services; effective dates of induction into a rehabilitation program, including retroactive induction; and cooperation and lack of cooperation in the initial evaluation process. The proposed amendments are intended to update pertinent regulations to reflect changes in law, VA's interpretation of applicable law, and VA's determination of appropriate procedures, and to improve clarity.

**DATES:** Comments must be received on or before July 7, 2009.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to the Director, Regulations Management (02REG), Department of

Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AN13—Vocational Rehabilitation and Employment Program—Basic Entitlement, etc." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Alvin Bauman, Senior Policy Analyst, Vocational Rehabilitation and Employment Service (28), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 461-9613.

**SUPPLEMENTARY INFORMATION:** In 38 CFR Part 21, Subpart A—Vocational Rehabilitation Under 38 U.S.C. Chapter 31, we propose to revise VA's regulations in 38 CFR 21.40 concerning basic entitlement to vocational rehabilitation benefits and services; in § 21.282 concerning effective dates of induction into a rehabilitation program; and in § 21.50(d) concerning cooperation and lack of cooperation in the initial evaluation process. We note that VA previously addressed changes in the provision of services under 38 U.S.C. chapter 31 that resulted from a court decision and the enactment of Public Law 104-275, the Veterans Benefits Improvement Act of 1996. This included VA's issuance of Circular 28-97-1 in 1997 (last revised in October 2004) to provide guidance regarding the implementation of these changes. The proposed rule would update 38 CFR part 21 consistent with current VA practice. In addition, the proposed rule would make other nonsubstantive changes.

#### Basic Entitlement to Vocational Rehabilitation Benefits and Services

We propose to revise § 21.40 to include criteria, effective October 1, 1993, for vocational rehabilitation basic entitlement determinations resulting from the Veterans' Benefits Act of 1992 (Pub. L. 102-568), enacted October 29, 1992. Public Law 102-568 amended 38 U.S.C. 3102(2) to entitle veterans to vocational rehabilitation if they have a 10 percent service-connected disability and are determined by the Secretary of

Veterans Affairs to be in need of rehabilitation because of a serious employment handicap.

The proposed changes to § 21.40 are also intended to reflect the provisions of section 602(c) of the Veterans Benefits Improvement Act of 1994 (Pub. L. 103-446), which amended section 404(b) of Public Law 102-568 with a technical correction, effective October 29, 1992. VA's interpretation of the effect of these statutory changes is to give individuals basic entitlement to vocational rehabilitation if:

- They have a 10 percent service-connected disability;
- They originally applied for assistance under chapter 31 of title 38, United States Code, before November 1, 1990; and
- VA determines they need rehabilitation because of an employment handicap.

In addition, the proposed changes to § 21.40 are intended to make clarifying changes and to restructure and rewrite this section in reader-focused plain English.

Due to changes that this document proposes in the structure of § 21.40, we are proposing to make a conforming change to refer elsewhere in Subpart A to § 21.40 rather than § 21.40(a).

#### Effective Dates of Induction Into a Rehabilitation Program, Including Retroactive Induction

In § 21.282, we propose to reflect a decision by the United States Court of Appeals for Veterans Claims (then the United States Court of Veterans Appeals) in *Bernier v. Brown*, 7 Vet. App. 434 (1995), which concerned effective dates for induction into a program of rehabilitation benefits and services. The *Bernier* decision set aside two provisions of current § 21.282 that limit retroactive induction into programs of rehabilitation benefits and services under 38 U.S.C. chapter 31. The first provision, in current § 21.282(b)(2)(ii), prohibits retroactive induction for any period for which an individual received another VA education benefit. The other provision, in current § 21.282(c), limits retroactive induction to no more than one year prior to the date of application for chapter 31 benefits and services. We address each of these provisions in our proposed revision of § 21.282.

Under proposed § 21.282, VA would be able to retroactively approve a period of training that occurred within an individual's period of eligibility under 38 CFR 21.41 through 21.46, beginning for a veteran on the effective date of the individual's entitlement to disability compensation, provided that the