

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 Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction because this rule establishes a safety zone.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under

ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting 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. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Public Law 107-295; 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a new temporary section § 165.T11-224 to read as follows:

§ 165.T11-224 Safety Zone; Naval Training August and September, San Clemente Island, CA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Pacific Ocean, from surface to bottom, at the north end of San Clemente Island bounded by lines connecting the following points: Beginning at 33°01.09' N, 118°36.34' W; thence to 32°59.95' N, 118°39.77' W; thence running parallel to the shoreline at a distance of approximately 3 NM to 33°02.81' N, 118°30.65' W; thence to 33°01.29' N, 118°33.88' W; thence along the shoreline returning to 33°01.09' N,

118°36.34' W. These coordinates are based on NAD 83.

(b) *Effective Period.* This section is effective from August 1, 2009 through September 30, 2009 during naval training exercises. If training is concluded prior to the scheduled termination time, the COTP will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definitions apply to this section: *Designated representative*, means any Commissioned, Warrant, or Petty Officers of the Coast Guard, Coast Guard Auxiliary, or local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the COTP; *non-authorized personnel and vessels*, means any civilian boats, fishermen, divers, and swimmers.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the COTP San Diego or his designated representative.

(2) Non-authorized personnel and vessels requesting permission to transit through the safety zone may request authorization to do so from the COTP San Diego or his designated representative. They may be contacted on VHF-FM Channel 16, or at telephone number (619) 278-7033.

(3) Naval units involved in the exercise are allowed in confines of the established safety zone.

(4) All persons and vessels shall comply with the instructions of the Coast Guard COTP or his designated representative.

(5) Upon being hailed by U.S. Coast Guard or other official personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(6) The Coast Guard may be assisted by other federal, state, or local agencies including the U.S. Navy.

Dated: June 15, 2009.

T.H. Farris,

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

[FR Doc. E9-17746 Filed 7-23-09; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AK95

Recoupment of Severance Pay From VA Compensation; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Correcting Amendment.

SUMMARY: This document contains a correction to the regulation of the Department of Veterans Affairs (VA) that governs recoupment of lump-sum readjustment pay from disability compensation. This correction is required in order to amend an authority citation in the regulation. No substantive change to the content of the regulation is being made by this correcting amendment.

DATES: *Effective:* July 24, 2009.

FOR FURTHER INFORMATION CONTACT: James E. Figliozzi, Office of Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 461-4902.

SUPPLEMENTARY INFORMATION: VA published an amendment to a final rule in the **Federal Register** on September 27, 2002 (See 67 FR 60868), that, among other things, added 10 U.S.C. 1174(h)(2) and 10 U.S.C. 1212(c) as authority citations for 38 CFR 3.700(a)(2)(iii). The citation to 10 U.S.C. 1212(c) is incorrect, because that statute governs the recoupment of disability severance pay. A subsequent amendment to the final rule on June 5, 2009 (See 74 FR 26957) retained this incorrect authority citation. This document corrects that error. Because the citation to 10 U.S.C. 1174(h)(2) is correct, it remains unchanged.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

■ Accordingly, 38 CFR part 3 is corrected by making the following correcting amendment:

PART 3—ADJUDICATION

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. In § 3.700, revise the authority citation after paragraph (a)(2)(iii) to read as follows:

§ 3.700 General.

* * * * *

(a) * * *

(2) * * *

(iii) * * *

(Authority: 10 U.S.C. 1174(h)(2))

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William F. Russo,*Director of Regulations Management.*

[FR Doc. E9-17308 Filed 7-23-09; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****44 CFR Part 62**

[Docket ID FEMA-2008-0001]

RIN 1660-AA58

National Flood Insurance Program (NFIP); Assistance to Private Sector Property Insurers; Write-Your-Own Arrangement**AGENCY:** Federal Emergency Management Agency, DHS.**ACTION:** Final rule.

SUMMARY: This rule adopts as final, without change, an interim rule published on April 3, 2008. The interim rule amended portions of the Federal Emergency Management Agency, Federal Insurance Administration, Financial Assistance/Subsidy Arrangement between Write-Your-Own Companies and FEMA. The added language assisted WYO Companies by recognizing each party's duties under the Arrangement and amended the way FEMA communicates changes to the Unallocated Loss Adjustment Expenses compensation rate to WYO Companies.

DATES: This rule is effective August 24, 2009.

FOR FURTHER INFORMATION CONTACT:

Edward L. Connor, Acting Federal Insurance Administrator, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3429 (Phone), (202) 646-3445 (facsimile), or Edward.Connor@dhs.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

Under the authority of sections 1304 and 1345 of the National Flood Insurance Act of 1968, Public Law 90-448, 82 Stat. 476, as amended (42 U.S.C. 4011, 4081), the Federal Emergency Management Agency (FEMA) provides insurance protection against flood damage to homeowners, businesses, and others by means of the National Flood Insurance Program (NFIP). The sale of flood insurance is largely implemented by private insurance companies that participate in the NFIP Write-Your-Own

(WYO) program. Through the WYO program, insurance companies enter into agreements with FEMA to sell and service flood insurance policies and adjust claims after flood losses.

Under the WYO program, 88 private sector property insurers issue flood insurance policies and adjust flood insurance claims under their own names based on the Financial Assistance/Subsidy Arrangement (Arrangement). The Arrangement is published at 44 CFR part 62, Appendix A and defines the duties and responsibilities of insurers that sell, service, and market insurance under the WYO program. The Arrangement also identifies the responsibilities of the Government to provide financial and technical assistance to these insurers. The Arrangement is renewed yearly through written agreement between the WYO Companies and FEMA.

FEMA published an interim final rule on April 3, 2008, (73 FR 18182) in which it made three changes to the Arrangement. These changes either clarified existing practices or clarified how FEMA communicates certain information to WYO Companies.

First, Article II, section G.3., was added to require the WYO Companies to notify their agents of the requirement to comply with State regulations regarding flood insurance agent education, notify them of flood insurance training opportunities needed to meet the minimum NFIP training requirements called for in section 207 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004, Public Law 108-264, 118 Stat. 727 (42 U.S.C. 4011 note), and assist FEMA in periodic assessment of agent training needs. Although WYO Companies were already undertaking these efforts, they were added to the Arrangement to formalize the commitment.

Second, FEMA revised Article VII, section A. to provide additional clarification that there is no requirement that WYO Companies use their own funds to pay NFIP claims when there are no funds available in the National Flood Insurance Fund (NFIF) to be drawn down through the company letter of credit. In such circumstances, the Federal Insurance Administrator would suspend the NFIP's payment of claims until funds are again available in the Treasury, and the WYO Companies would not be required to pay claims from their own funds in the event of such a suspension. This change was consistent with pre-existing FEMA policy.

Finally, FEMA revised Article III, section C.1. of the Arrangement which deals with the Unallocated Loss

Adjustment Expense (ULAE) for which WYO Companies receive reimbursement under the Arrangement. ULAE is intended to cover those claim handling expenses that are not associated with specific claims, such as maintaining the home office claims staff and establishing and running on-site claims field offices. Before the interim final rule, the ULAE rate was an expense reimbursement of 3.3 percent of the incurred loss (except that it does not include "incurred but not reported"). The effect of the interim final rule was to remove the ULAE compensation percentage from the Arrangement. Instead, the percentage is now communicated by FEMA to the WYO Companies through a formula that is not written into the Arrangement. For fiscal year 2009, the formula was sent to each WYO Company as part of their offer to renew their Financial Assistance/Subsidy Arrangement.

Although the interim final rule was focused on the manner in which the ULAE formula is communicated to the WYO Companies, and not the actual ULAE rate itself, FEMA sought data to use in its efforts to revise the formula, and suggestions for ways to tailor the formula to ensure that it would accurately reimburse WYO Companies for their actual loss. WYO Companies were encouraged to submit actual ULAE data during the comment period of the interim final rule to assist FEMA in continuing to refine the formula.

II. Discussion of Public Comments

FEMA received no comments from the public regarding the interim final rule. All previously published rulemaking documents, including the interim final rule which contains an in-depth explanation for the changes made, and supporting data are available in the public docket for this rulemaking. The public docket for this rulemaking is available online by conducting a search for Docket ID FEMA-2008-0001, at the Federal e-Rulemaking Portal at <http://www.regulations.gov>.

III. Regulatory Requirements*Congressional Review of Agency Rulemaking*

FEMA has sent this final rule to the Congress and to the Government Accountability Office under the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801-808. As discussed in depth below in the Executive Order 12866 analysis, this rule is not a "major rule" within the meaning of that Act and will not result in an annual effect on the economy of \$100,000,000 or more. Moreover, it will not result in a major increase in costs or