

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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or 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 M16475.1D, 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. This rule involves the establishment of a temporary safety zone, ships can safely pass around the zone, and the zone will be enforced for only five hours. Therefore this rule is categorically excluded under paragraph 34(g) of the Instruction.

An environmental analysis check list and 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. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09-0775 to read as follows:

§ 165.T09-0775 Safety Zone; Revolution 3, Sandusky Bay, Lake Erie, Cedar Point, OH.

(a) *Location.* The following area is a temporary safety zone: All waters of Lake Erie within 41-29-00.04 N, 082-40-48.16 W to 41-29-19.28 N, 082-40-38.97 W to 41-29-02.51 N, 082.40.20.82 W to 41-28-45.52 N, 082-40-35.75 W. In the event of inclement weather, the following alternate area is a temporary safety zone: All waters of Sandusky Bay within 41-28-22 N, 082-40-44 W to 41-28-38.59 N, 082-41-10.51 W to 41-28-17.25 N, 082-40-54.09 W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective and Enforcement Period.* This regulation is effective and will be enforced from 6:00 a.m. through 11:00 a.m. on September 11, 2011.

(c) Regulations.

(1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on scene representative may be contact via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall

contact the Captain of the Port Detroit or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port or his on-scene representative.

Dated: August 29, 2011.

J.E. Ogden,

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

[FR Doc. 2011-22995 Filed 9-7-11; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2011-0786]

RIN 1625-AA00

Safety Zones; Fireworks Displays and Surfing Events in Captain of the Port Long Island Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing safety zones for marine events within the Captain of the Port (COTP) Long Island Sound Zone for a surfing event and fireworks displays. This action is necessary to provide for the safety of life on navigable waters during the events. Entry into, transit through, mooring or anchoring within this zone is prohibited unless authorized by the COTP Sector Long Island Sound.

DATES: This rule is effective in the CFR on September 8, 2011 through 5 p.m. on September 15, 2011. This rule is effective with actual notice for purposes of enforcement beginning at 8:30 p.m. on September 1, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-0786 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-0786 in the “Keyword” box, and then clicking “Search.” They are also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary

rule, call or e-mail Petty Officer Joseph Graun, Prevention Department, Coast Guard Sector Long Island Sound, (203) 468-4544, *Joseph.L.Graun@uscg.mil*. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because any delay encountered in this regulation's effective date by publishing an NPRM would be contrary to public interest since immediate action is needed to protect both spectators and participants from the potential safety hazards associated with these events. We spoke to the event sponsors, and they are unable and unwilling to move their event dates for the following reasons.

The sponsors for Quiksilver Pro New York, Surf competition stated delaying the event is not an option because weather conditions later in the year will not support competition size waves. This is the first time this event will be held on the East Coast. The sponsors were not aware of the requirements for submitting a marine event application 135 days in advance resulting in a late notification to the Coast Guard. The sponsors are now aware of the reporting requirements.

The sponsors for Stamford Fireworks and Village of Island Park Labor Day Celebration Fireworks submitted a marine event application with sufficient notice to the Coast Guard. These fireworks displays are recurring marine events with a corresponding entry in a proposed permanent rule for which the NPRM just closed its public comment period (docket number USCG-2008-0384); no public comments were received. The Coast Guard is establishing these temporary safety zones to provide for safety of life during this year's events.

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**. Delaying the effective date by first publishing a NPRM would be contrary to the rule's objectives of ensuring safety of life on the navigable waters during these scheduled events as immediate action is needed to protect both spectators and participants from the potential safety hazards associated with these events including collisions with surfers, unexpected pyrotechnics detonation and burning debris.

Basis and Purpose

The legal basis for this temporary rule is 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; and Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to define regulatory safety zones.

This temporary rule establishes safety zones for fireworks displays and a surfing event. Marine events are frequently held on the navigable waters within the COTP Long Island Sound Zone. Based on accidents that have occurred in the past and the explosive hazards of fireworks, the COTP Long Island Sound has determined that surfing events and fireworks displays proximate to watercrafts pose significant risk to public safety and property.

In order to protect the safety of all waterway users including event participants and spectators, this temporary rule establishes safety zones for the time and location of each event.

Discussion of Rule

This temporary rule establishes safety zones for two fireworks displays and one surfing event in the COTP Long Island Sound Zone. These events are listed below in the text of the regulation in table format.

Because large numbers of spectator vessels are expected to congregate around the location of these events, these regulated areas are needed to protect both spectators and participants from the safety hazards created by them including unexpected pyrotechnics detonation, burning debris, and hazards inherent with surfing competitions.

This rule prevents vessels from entering, transiting, mooring or anchoring within areas specifically designated as regulated areas during the periods of enforcement unless authorized by the COTP, or designated representative.

The Coast Guard determined that these regulated areas will not have a significant impact on vessel traffic due to their temporary nature, limited size, and the fact that vessels are allowed to

transit the navigable waters outside of the regulated areas. The COTP will cause public notifications to be made by all appropriate means including but not limited to the Local Notice to Mariners as well as Broadcast Notice to Mariners.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Executive Order 12866 and Executive Order 13563

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, 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.

The Coast Guard determined that this rule is not a significant regulatory action for the following reasons: The regulated areas will be of limited duration and cover only a small portion of the navigable waterways. Furthermore, vessels may transit the navigable waterways outside of the regulated areas. Vessels requiring entry into the regulated areas may be authorized to do so by the COTP or the designated representative.

Advance public notifications will also be made to the local maritime community by the Local Notice to Mariners as well as Broadcast Notice to Mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises 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. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the designated regulated areas during the enforcement periods stated for each

event listed below in the List of Subjects.

The temporary safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: The regulated areas will be of limited size and of short duration, and vessels that can safely do so may navigate in all other portions of the waterways except for the areas designated as regulated areas.

Additionally, before the effective period, notifications will be made to the local maritime community by all appropriate means including but not limited to the Local Notice to Mariners and Broadcast Notice to Mariners well in advance of the events.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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.

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). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

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

A rule has implications 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 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not cause 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 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 relationship 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 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or 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. This rule involves the establishment of safety zones. 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, and 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; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T01–0786 to read as follows:

§ 165.T01-0786 Safety Zones; Fireworks Displays and Surfing Events in Captain of the Port Long Island Sound Zone

(a) Regulations.

The general regulations contained in 33 CFR 165.23 as well as the following regulations apply to the events listed in TABLE 1 of § 165.T01-0786 and TABLE 2 of § 165.T01-0786.

These regulations will be enforced for the duration of each event.

(b) Definitions. The following definitions apply to this section:

(1) Designated Representative. A “designated representative” is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port, Sector Long Island Sound (COTP), to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. In addition, members of the Coast Guard

Auxiliary may be present to inform vessel operators of this regulation.

(2) Official Patrol Vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(3) Spectators. All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(c) Vessel operators desiring to enter or operate within the regulated areas should contact the COTP or the designated representative via VHF channel 16 or by telephone at (203) 468-4404 to obtain permission to do so.

(d) Spectators shall not anchor, block, loiter, or impede the transit of event participants or official patrol vessels in the regulated areas during the effective dates and times, or dates and times as modified through the Local Notice to Mariners, unless authorized by COTP or designated representative.

(e) The COTP or designated representative may delay or terminate

any marine event in this subpart at any time it is deemed necessary to ensure the safety of life or property.

(f) The regulated area for all fireworks displays listed in TABLE 1 of § 165.T01-0786 is that area of navigable waters within a 1000 foot radius of the launch platform or launch site for each fireworks display. Fireworks barges used in these locations will also have a sign on their port and starboard side labeled “FIREWORKS—STAY AWAY.” This sign will consist of 10 inch high by 1.5 inch wide red lettering on a white background. Shore sites used in these locations will display a sign labeled “FIREWORKS—STAY AWAY” with the same dimensions.

(g) The regulated areas for all surfing events listed in Table 2 of § 165.T01-0786 are all navigable waters within a 100 yard radius of surfing participants and support vessels within the location area.

TABLE 1 OF § 165.T01-0786

Fireworks Events	
1 Stamford Fireworks	<ul style="list-style-type: none"> • Date: September 1, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: All waters of Stamford Harbor, Stamford, CT in approximate position 41°1'48.464" N, 073°32'15.316" W (NAD 83).
2 Village of Island Park Labor Day Celebration Fireworks.	<ul style="list-style-type: none"> • Date: September 3, 2011. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters off Village of Island Park Fishing Pier, Village Beach, NY in approximate position 40°36'30.95" N, 073°39'22.23" W (NAD 83).

TABLE 2 OF § 165.T01-0786

Surfing Events	
2 Quiksilver Pro New York, Surf competition.	<ul style="list-style-type: none"> • Effective dates: September 4-15, 2011. • Enforcement dates: 4 days to be determined by weather. • Notification: Broad. • Time: 8 a.m. to 5 p.m. • Locations: All waters of the Atlantic Ocean within 150 yards of each beach listed below, Long Beach, NY. • National Beach: Approximate positions, beach begins 40°34'58.961" N, 073°40'10.236" W beach ends 40°34'58.961" N, 073°39'59.962" W. • Lincoln Beach: Approximate positions, beach begins 40°34'56.647" N, 073°39'18.982" W beach ends 40°34'56.647" N, 073°39'8.668" W. • Laurelton Beach: Approximate positions, beach begins 40°34'59.344" N, 073°40'31.962" W beach ends 40°34'59.344" N, 073°40'31.789" W. • Pacific Beach: Approximate positions, beach begins 40°34'56.733" N, 073°38'37.385" W beach ends 40°34'56.733" N, 073°38'26.491" W.

Dated: August 19, 2011.

J.M. Vojvodich,

Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.

[FR Doc. 2011-22996 Filed 9-7-11; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 17 and 51

RIN 2900-AN63

Per Diem Payments for the Care Provided to Eligible Veterans Evacuated From a State Home as a Result of an Emergency

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its regulations concerning per diem payments to States to permit continuation of such payments in some situations for veterans who have been evacuated from a State home as a result of an emergency. Per diem is the daily rate paid by VA to a State for providing a specified level of care to eligible veterans in a facility that is officially recognized and certified by VA. This final rule authorizes VA to continue to pay per diem when veterans for whom VA is paying per diem are evacuated as a result of an emergency from a State home to a facility that is not recognized by VA as a State home. The rule requires, in order for per diem payments to continue while the veteran is relocated due to an emergency, that an appropriate VA official determine whether an emergency exists and whether the facility to which veterans may be evacuated (evacuation facility) complies with certain minimum standards. The rule establishes the minimum standards that facilities to which veterans are evacuated must meet in order for States to continue receiving per diem for relocated veterans. These standards also apply to evacuation facilities when veterans are evacuated from contract nursing homes.

DATES: *Effective Date:* This final rule is effective October 11, 2011. This final rule applies to all applications for reimbursement pending with VA or received by VA on or after the effective date of this rule.

FOR FURTHER INFORMATION CONTACT: Theresa A. Hayes, MPH, RN, Office of Patient Care Services (114), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue,

NW., Washington, DC 20420, (202) 461-6771 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Pursuant to 38 U.S.C. 1741-1745, VA provides per diem payments to reimburse States for each eligible veteran receiving nursing home care, domiciliary care, and adult day health care in State home facilities that are recognized and certified by VA. Section 1742 specifically provides that “[n]o payment or grant may be made to any home * * * unless such home is determined by the Secretary to meet such standards as the Secretary shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 1720(b) of this title.” The statutes do not address circumstances in which veterans may need to be evacuated temporarily to another facility due to an emergency.

VA implemented its authority to provide per diem payments to States in, inter alia, 38 CFR parts 17 and 51. In a document published in the **Federal Register** on March 23, 2011 (76 FR 16354), VA proposed to amend those regulations to address VA’s authority to continue per diem payments to a State for a veteran during an emergency evacuation of the veteran to a temporary or substitute State home facility where the State continues to provide care.

VA provided a 60-day comment period that ended May 23, 2011. VA received no comments. Based on the rationale set forth in the proposed rule and in this document, we are adopting the proposed rule as a final rule without change.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule does not contain any collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

Executive Order 12866

Executive order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential

economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a “significant regulatory action,” requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this final rule and has concluded that it does not constitute a significant regulatory action under the Executive Order.

Regulatory Flexibility Act

The Secretary hereby certifies that this 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 final rule affects veterans receiving care in State facilities and will not have a significant economic impact on any small entities. Accordingly, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of section 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers and titles are 64.009 Veterans Medical Care Benefits, 64.010 Veterans Nursing Home Care, and 64.011 Veterans Dental Care.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on September 1, 2011, for publication.