

Army and was published as 32 CFR Part 501. The program responsibility was transferred to the Office of the Assistant Secretary of Defense for Homeland Defense and is now covered by DoD Directive 3025.12, Employment of Military Resources in the Event of Civil Disturbances which replaces the requirements formerly set forth. Therefore, to avoid confusion with the public, 32 CFR Part 501 is removed.

#### List of Subjects in 32 CFR Part 501

Armed forces, Civil disorders, Intergovernmental relations, Law enforcement, Military law.

#### PART 501—[REMOVED]

■ Accordingly, for reasons stated in the preamble, under the authority of Sections 331, 332, 333, and 3012 70A Stat. 15, 157; 10 U.S.C. 331, 332, 333, 3012, 32 CFR part 501, *Employment of Troops in Aid of Civil Authorities*, is removed in its entirety.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. E8-9438 Filed 4-29-08; 8:45 am]

BILLING CODE 3710-08-P

## DEPARTMENT OF DEFENSE

### Department of the Army

#### 32 CFR Part 502

##### Relief Assistance

**AGENCY:** Department of the Army, DoD.  
**ACTION:** Final rule.

**SUMMARY:** This action removes 32 CFR Part 502, Relief Assistance. The regulations are being removed because they are obsolete and no longer govern policies and procedures for disaster relief activities. The program responsibility has been transferred to the Office of the Assistant Secretary of Defense for Homeland Defense.

**DATES:** Effective April 30, 2008.

**ADDRESSES:** Department of the Army, Office of the Deputy Chief of Staff, G-3/5/7, DAMO-ODS, 400 Army Pentagon, Washington, DC 20310-0400.

**FOR FURTHER INFORMATION, CONTACT:** Ms. Loretta Phillips, (703) 692-7459.

**SUPPLEMENTARY INFORMATION:** The responsibility for this program was originally with the Department of the Army and was published as 32 CFR part 502. The program responsibility was transferred to the Office of the Assistant Secretary of Defense for Homeland Defense and is now covered by the DoD Directive 3025.1, Military Support to Civil Authorities (MSCA) which

replaces the requirements formerly set forth. Therefore, to avoid confusion with the public, 32 CFR Part 502 is removed.

#### List of Subjects in 32 CFR Part 502

Armed forces, Disaster assistance.

#### PART 502—[REMOVED]

■ Accordingly, for reasons stated in the preamble, under the authority of Section 3012, 70A Stat. 147; 10 U.S.C. 3012, 32 CFR part 502, *Relief Assistance*, is removed in its entirety.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. E8-9436 Filed 4-29-08; 8:45 am]

BILLING CODE 3710-08-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[USCG-2008-0329]

RIN 1625-AA87

#### Security Zone; Cleveland Harbor, Dock 32, Cleveland, OH

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary security zone in the eastern basin section of Lake Erie adjacent to Dock 32 in Cleveland, OH. This zone is intended to restrict vessels during the Ninth Coast Guard District Change of Command Ceremony on May 22, 2008. This security zone is necessary to provide for the security and safety of life for event participants. Entry into this zone is prohibited unless authorized by the Captain of the Port, Buffalo, NY, or a designated representative.

**DATES:** This rule is effective from 12 noon until 5 p.m. on May 22, 2008.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket USCG-2008-0329 are part of this docket are available online at <http://www.regulations.gov>. This material is also available for inspection or copying at two locations: 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 and at the U.S. Coast Guard Marine Safety Unit

Cleveland, 1055 East 9th Street, Cleveland, OH 44114 between 8 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant (LT) Nicole Starr, U.S. Coast Guard Marine Safety Unit Cleveland, at (216) 937-0128. If you have questions about viewing the online docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the security of event participants.

##### Background and Purpose

The Coast Guard will conduct a Change of Command ceremony along Lake Erie at dock 32 in Cleveland, OH, on May 22, 2008. A security zone is needed from 12 noon through 5 p.m. on that date to protect dignitaries taking part in this high-level military ceremony and spectators from potential threats posed by waterborne acts of sabotage or other subversive acts.

The event will consist of a background comprised of two U.S. Coast Guard vessels anchored perpendicular to the stern of the SS MATHER on the waters of Cleveland Harbor at dock 32. U.S. Coast Guard patrol vessels will be provided to prevent the movement of persons and vessels.

##### Discussion of Rule

The Coast Guard is establishing a temporary security zone for the Ninth Coast Guard District Change of Command on May 22, 2008. The zone encompasses all waters of Lake Erie adjacent to Dock 32 in Cleveland, OH, within a 200-yard radius originating from the north east corner of Dock 32.

Entry into this zone is prohibited unless authorized by the Captain of the Port or his designated representative. This security zone will be in effect from 12 noon through 5 p.m. on May 22, 2008 to safeguard event participants and spectators. All persons other than those approved by the Captain of the Port Buffalo, or his on-scene representative, are prohibited from entering or moving within this security zone. In addition to today's publication of this temporary

final rule, the Coast Guard will provide notice of this security zone and its restrictions involved via Broadcast Notice to Mariners.

### 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 this rule under that Order.

This determination is based on the size and location of the security zone within the water. Commercial vessels will not be hindered by the security zone. Recreational vessels will be allowed to transit through the designated security zone during the specified times if approved by the Captain of the Port, Buffalo or his designated representative.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant 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 might be small entities: The owners or operators of commercial vessels intending to transit a portion of the security zone from 12 noon until 5 p.m. on May 22, 2008. The zone will only encompass a limited area. Shallow water vessel traffic not constrained by draft can pass safely around the security zone. A lack of commercial vessel traffic exists in the area during the effective period. Maritime advisories on the Change of Command ceremony have been advertised and made widely available to users of the waterway and will continue until the ceremony is complete.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule will affect your small business,

organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Nicole Starr, U.S. Coast Guard Marine Safety Unit Cleveland, 1055 East 9th Street, Cleveland, OH 44114; telephone (216) 937–0128.

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 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 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 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

The Coast Guard has 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

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that these special local regulations and fishing rights protection need not be incompatible. We have also determined that 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this Rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

### 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 procedure; and related management system 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 Commandant Instruction M16475.1D which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph 34(g) of the Instruction from further environmental documentation. This rule establishes a security zone and as such is covered by this paragraph. A final “Environmental Analysis Check List” and a final “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 record keeping requirements, 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; 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; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–004 is added as follows:

#### § 165.T09–004 Security Zone; Cleveland Harbor, Dock 32.

(a) *Location.* The following area is a temporary security zone: all waters of Cleveland Harbor, Cleveland, OH, within a 200 yard radius originating from the north east corner of dock 32.

(b) *Effective period.* This section is effective from 12 noon until 5 p.m. on May 22, 2008.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into, transiting, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port Buffalo, or his on-scene representative.

(2) The security zone described in paragraph (a) of this section is closed to all vessel traffic, except as may be

permitted by the Captain of the Port Buffalo or his 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 onboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the security zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

Vessel operators given permission to enter or operate in the security zone shall comply with all directions given to them by the Captain of the Port Buffalo or his on-scene representative.

Dated: April 14, 2008.

**S.J. Ferguson,**

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

[FR Doc. E8–9479 Filed 4–29–08; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 3

RIN 2900–AM17

#### Notice and Assistance Requirements and Technical Correction

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

**SUMMARY:** The Department of Veterans Affairs (VA) is amending its regulation governing VA’s duty to provide a claimant with notice of the information and evidence necessary to substantiate a claim and VA’s duty to assist a claimant in obtaining the evidence necessary to substantiate the claim. The purpose of these changes is to clarify when VA has no duty to notify a claimant of how to substantiate a claim for benefits, to make the regulation comply with statutory changes, and to streamline the development of claims. Additionally, we are making a non-substantive, technical correction to the statutory references in a separate part 3 regulation.

**DATES:** *Effective Date:* This amendment is effective May 30, 2008.

*Applicability Date:* The amendments to 38 CFR 3.159 apply to applications for benefits pending before VA on or filed after the effective date of this rule.

**FOR FURTHER INFORMATION CONTACT:** Maya Ferrandino, Consultant,

Regulations Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (727) 319–5847.

**SUPPLEMENTARY INFORMATION:** On October 31, 2006, VA published in the **Federal Register** (71 FR 63732) a proposal to revise VA’s regulation regarding VA assistance in developing claims, 38 CFR 3.159. Interested persons were invited to submit written comments on or before January 2, 2007. We received two comments from members of the public.

#### Proposed Rule

#### 38 CFR 3.159(b)(3)

Under 38 U.S.C. 5103(a), upon receipt of a substantially complete application for benefits, VA must “notify the claimant and the claimant’s representative, if any, of any information, and any medical or lay evidence, not previously provided to the Secretary that is necessary to substantiate the claim” (section 5103(a) notice). VA implemented section 5103(a) in 38 CFR 3.159, which reflects section 5103(a)’s requirement that VA give the notice upon receipt of a substantially complete application. See 38 CFR 3.159(b)(1). In addition, VA defined “substantially complete application” for purposes of section 5103(a) notice. See 38 CFR 3.159(a)(3).

Experience implementing section 5103(a) disclosed a potential ambiguity in the regulations, which this rulemaking removes. That ambiguity is whether VA’s receipt of a notice of disagreement (NOD) also triggers VA’s duty to give section 5103(a) notice because the NOD can be viewed as satisfying the definition of “application” in 38 CFR 3.1(p). We proposed to clarify that it does not.

An NOD is the means by which a claimant initiates an appeal of a decision on a claim to the Board of Veterans’ Appeals (Board). 38 U.S.C. 7105(a); 38 CFR 20.200. “A written communication from a claimant or his or her representative expressing dissatisfaction or disagreement with an adjudicative determination by the agency of original jurisdiction and a desire to contest the result will constitute [an NOD].” 38 CFR 20.201.

We stated that, because the definition of “application” in § 3.1(p) is a holdover from before the Veterans Claims Assistance Act of 2000 (VCAA), Public Law 106–475, 114 Stat. 2096, and was not intended to govern when VA must give section 5103(a) notice, VA does not view it as dispositive of the question. Furthermore, section 5103(a) does not