

Dated: September 2, 2008.

**Patrick B. Trapp,**

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

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2007-0157]

RIN 1625-AA87

#### Security Zone; Escorted Vessels, Savannah, GA, Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is adopting a security zone interim rule published in July 2008 as a final rule. This rule creates a security zone around any vessel escorted by one or more Coast Guard, State, or local law enforcement assets on the navigable waters of the Captain of the Port (COTP) Zone, Savannah, Georgia. This action is necessary to protect personnel, vessels, and facilities from sabotage or other subversive acts, accidents, or other events of a similar nature. No vessel or person will be allowed in this zone unless authorized by the Captain of the Port or a designated representative.

**DATES:** Effective October 23, 2008, the interim rule amending 33 CFR part 165 which was published at 73 FR 37835 on July 2, 2008, is adopted without change as a final rule.

**ADDRESSES:** Documents indicated in this preamble as being available in the docket are part of docket USCG-2007-0157 and are available online at <http://www.regulations.gov>. They are 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 the U.S. Coast Guard Marine Safety Unit Savannah, 100 West Oglethorpe Avenue, Suite 1017, Savannah, GA 31401 between 7:30 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Lieutenant Jeanita Jefferson, U.S. Coast

Guard Marine Safety Unit Savannah at (912) 652-4353. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On July 2, 2008, we published an interim rule with request for comments entitled "Security Zone; Escorted Vessels, Savannah, GA, Captain of the Port Zone" in the *Federal Register* (73 FR 37835). We did not receive any letters commenting on the interim rule. No public meeting was requested, and none was held.

##### Background and Purpose

The terrorist attacks of September 2001 heightened the need for development of various security measures throughout the seaports of the United States, particularly around vessels and facilities whose presence or movement creates a heightened vulnerability to terrorist acts, or those for which the consequences of terrorist acts represent a threat to national security. The President of the United States has found that the security of the United States is and continues to be endangered following the attacks of September 11 (E.O. 13,273, 67 FR 56215, Sept. 3, 2002 and 72 FR 54205, Sept. 21, 2007). Additionally, national security and intelligence officials continue to warn that future terrorist attacks are likely.

The Captain of the Port (COTP) Zone Savannah, Georgia frequently receives vessels that require additional security, including, but not limited to, vessels carrying sensitive Department of Defense cargoes, vessels carrying dangerous cargoes, and foreign naval vessels. The Captain of the Port has determined that these vessels have a significant vulnerability to subversive activity by other vessels or persons, or, in some cases, themselves pose a risk to a port and the public within the COTP Zone, as described in 33 CFR 3.35-30. The COTP sought comments on the interim rule published July 2, 2008 (73 FR 37835) which enabled the COTP Savannah to provide effective port security, while minimizing the public's confusion and easing the administrative burden of implementing separate temporary security zone rules for each escorted vessel. As noted, we did not receive any comment on this interim rule.

##### Discussion of Rule

The COTP is adopting the currently-effective interim rule reflected in 33 CFR 165.749 as a final rule. This rule

establishes a security zone that prohibits persons and vessels from coming within 300 yards of all escorted vessels within the navigable waters of the COTP Zone Savannah, Georgia unless authorized by the Coast Guard COTP Savannah, or the COTP's designated representative.

The navigable waterways included in this rule are the Port of Savannah and the Port of Brunswick in Georgia. Persons or vessels that receive permission to enter the security zone must proceed at a minimum safe speed and must comply with all orders issued by the COTP or a designated representative. Those vessels granted permission to enter the 300 yard security zone may not come within 50 yards of any escorted vessel. An escorted vessel will be defined as a vessel, other than a large U.S. naval vessel as defined in 33 CFR 165.2015, that is accompanied by one or more Coast Guard assets or other Federal, State or local law enforcement agency assets clearly identifiable by lights, vessel markings, or with agency insignia as listed below:

- Coast Guard surface or air asset displaying the Coast Guard insignia.
  - State and/or local law enforcement asset displaying the applicable agency markings and/or equipment associated with the agency.
  - When escorted vessels are moored, dayboards or other visual indications such as lights or buoys may be used.
- In all cases, broadcast notice to mariners will be issued to advise mariners of these restrictions.

##### Regulatory Analyses

We adopted the interim rule as final after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### Regulatory Planning and Review

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.

We expect the economic impact of this rule to be so minimal so that a full Regulatory Evaluation is unnecessary. The limited geographic area impacted by the security zone will not restrict the movement or routine operation of commercial or recreational vessels through the Ports of Savannah and Brunswick, Georgia.

### 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 may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit in the vicinity of escorted vessels. This rule would not have a significant impact on a substantial number of small entities because the zones are limited in size, in most cases leaving ample space for vessels to navigate around them. The zones will not significantly impact commercial and passenger vessel traffic patterns, and mariners will be notified of the zones via Broadcast Notice to Mariners. Where such space is not available and security conditions permit, the Captain of the Port will attempt to provide flexibility for individual vessels to transit through the zones as needed.

### 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 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

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 5100.1 and Commandant Instruction M16475.ID 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 under the Instruction 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. 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.

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ For the reasons discussed in the preamble, under authority of 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, the interim rule amending 33 CFR part 165 that was published at 73 FR 37835 on July 2, 2008, is adopted as a final rule without change.

Dated: September 9, 2008.

**Lonnie P. Harrison, Jr.,**

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

[FR Doc. E8–22138 Filed 9–22–08; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

RIN 2900–AN05

### Presumption of Service Connection for Amyotrophic Lateral Sclerosis

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Interim final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) adjudication regulations to establish a presumption of service connection for amyotrophic lateral sclerosis (ALS) for any veteran who develops the disease at any time after separation from service. This amendment is necessary to implement a decision by the Secretary to establish such a presumption based primarily on a November 2006 report by the National Academy of Sciences Institute of Medicine (IOM) on the association between active service and ALS.

**DATES:** *Effective Date:* This interim final rule is effective September 23, 2008. Comments must be received on or before November 24, 2008.

*Applicability Date:* The provisions of this interim final rule shall apply to all applications for benefits that are received by VA on or after the effective date of this interim final rule or that are pending before VA, the United States Court of Appeals for Veterans Claims, or the United States Court of Appeals for the Federal Circuit on the effective date of this interim final rule. In accordance with 38 U.S.C. 5110(g), the effective date of benefits awarded pursuant to

this rule will be assigned in accordance with the facts found, but cannot be earlier than the effective date of this rule or the date one year prior to the date of application, whichever is later.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>, by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20042; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to “RIN 2900–AN05—Presumption of Service Connection for Amyotrophic Lateral Sclerosis.” 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) 461–4923 for an appointment (this is not a toll-free number). 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:**

Rhonda Ford, Chief, Regulation Staff (211D), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 461–9739.

**SUPPLEMENTARY INFORMATION:** This interim final rule establishes a presumption of service connection for ALS for any veteran who develops the disease at any time after separation from service. ALS (also called Lou Gehrig’s disease) is a neuromuscular disease that affects about 20,000 to 30,000 people of all races and ethnic backgrounds in the United States and is often relentlessly progressive and almost always fatal. ALS causes degeneration of nerve cells in the brain and spinal cord that leads to muscle weakness, muscle atrophy, and spontaneous muscle activity. People suffering from ALS eventually lose the ability to move their arms and legs and to speak and swallow. The median survival period for people with ALS is 3 years from the onset of symptoms, and most people with ALS die from respiratory failure within 5 years. Currently, there is no effective treatment for ALS.

In November 2006, IOM issued the report *Amyotrophic Lateral Sclerosis in Veterans: Review of the Scientific Literature*, which concluded that “there is limited and suggestive evidence of an association between military service and later development of ALS.” The report

summarized the findings of a 2005 “high-quality cohort study” by M.G. Weisskopf *et al.*, entitled *Prospective study of military service and mortality from ALS*, 64(1) *Neurology* 32 (2005), which evaluated ALS risk among veterans with service prior to 1982, including veterans of service during World War II, the Korean War, and the Vietnam War, and concluded that these veterans, regardless of years of service, were at a statistically significant greater risk of developing ALS compared to civilians. The IOM report concluded that “[a]lthough the study has some limitations \* \* \* overall it was a well-designed and well-conducted study” that “adequately controlled for confounding factors (age, cigarette use, alcohol consumption, education, self-reported exposure to pesticides and herbicides, and several main lifetime occupations).”

The IOM report also noted that other studies corroborated the findings of the Weisskopf study, including 2003 studies by R.D. Horner *et al.* (*Occurrence of amyotrophic lateral sclerosis among Gulf War veterans*, 61(6) *Neurology* 742 (2003)) and R.W. Haley (*Excess incidence of ALS in young Gulf War veterans*, 61(6) *Neurology* 750 (2003)), which suggested that veterans of the 1991 Gulf War were at greater risk of developing ALS than civilians. IOM characterized the Horner study as “generally well conducted.” In December 2001, based on pre-publication announcements of these 2003 studies, Secretary of Veterans Affairs Anthony J. Principi made a policy decision to give special consideration to ALS claims by veterans of the 1991 Gulf War regardless of when the disease became manifest. The findings of the Weisskopf study, however, suggest that military service in general, and not just circumstances specific to the 1991 Gulf War, is related to the development of ALS.

The cause of ALS is unknown, but these studies indicate that there exists a statistical correlation between activities in military service and development of ALS. Although the IOM report suggested that further studies may establish a more definite association between ALS and military service, the Secretary believes it is unlikely that conclusive evidence will be developed in the foreseeable future to establish the cause of ALS among military or civilian populations due to the rarity of this particular disease. After careful consideration of the studies referenced above and the fact that further research is unlikely to clarify this association between ALS and military service, the Secretary believes there is sufficient