

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.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

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 relationships 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 Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports 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; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 6.04-11, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07-129 is added to read as follows:

§ 165.T07-129 Security Zone; Port of Tampa, Tampa Florida.

(a) *Regulated area.* The Coast Guard is establishing a temporary fixed security zone in all waters in the vicinity of MacDill Air Force Base commencing from a point at 27° 50.20' N/82° 32.14' W extending 1,000 yards from shore to a point at 27° 49.60' N/82° 32.14' W then south-easterly 1,000 yards from shore to a point at 27° 48.90' N/82° 28.20' W then circling 1,000 yards from shore to a point at 27° 51.51' N/82° 28.60' W then westerly to end at a point at 27° 51.51' N/82° 29.18' W.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited except as authorized by the Captain of the Port, or his designated representative. The Captain of the Port will notify the public via Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 13 and 16 (157.1 MHz).

(c) *Dates.* This section becomes effective at 7 a.m. (EDT) on October 24, 2001 and will remain in effect until 7 a.m. (EST) on January 31, 2002.

Dated: October 23, 2001.

A.L. Thompson, Jr.,

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

[FR Doc. 01-29885 Filed 11-30-01; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900-AJ73

Board of Veterans' Appeals: Rules of Practice—Notice of Appeal in Simultaneously Contested Claim

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

SUMMARY: The Board of Veterans' Appeals (Board) adjudicates appeals from denials of claims for veterans' benefits filed with the Department of Veterans Affairs (VA). This document amends a Board Rule of Practice, pertaining to a type of notice given in simultaneously contested claim appeals,

to eliminate an inconsistency between that Rule of Practice and an Appeals Regulation and to update a presumption related to communication of the notice.

DATES: Effective Date: January 2, 2002.

FOR FURTHER INFORMATION CONTACT:

Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202-565-5978).

SUPPLEMENTARY INFORMATION:

In a document published in the **Federal Register** on October 1, 1999 (64 FR 53302), we proposed to amend the Board's Rules of Practice to reconcile conflicting regulatory requirements in 38 CFR 19.102 and 38 CFR 20.502 concerning the information provided to other parties to a contested claim about the appeal of a contesting party. We also proposed to change a presumption concerning the date of furnishing this information.

The only comment that we received raised an objection concerning the presumption. As proposed, the rule would provide a presumption that information about the content of one contesting party's Substantive Appeal was furnished to other contesting parties on the date of the letter from VA that accompanies the information. The date the information is furnished is important because it begins a statutory 30-day time limit for filing a brief or argument in response to a Substantive Appeal.

A national veterans' service organization recommended that the time limit for filing the response begin to run on the date of mailing the information, stating that the "proposed rule does not take into consideration the time delay of placing mail within the internal mail system of the Department." In the alternative, the organization suggested that the rule require that the information and letter be placed "directly into the U.S. mail system."

The presumption in this rule has been based on the date of the letter for a number of years and the proposed rule would not change that. It merely would establish the presumption that the information was furnished on the date of the letter, as opposed to the previous presumption that the information was mailed on the date of the letter. The change was proposed specifically to remove the presumption's tie to mailing, inasmuch as the means of communication is not limited to mailing by regulation or statute. The applicable statute, 38 U.S.C. 7105A, merely requires that notice of the substance of the appeal be "communicated to the other party or parties in interest" by

“forward[ing] to the last known address of record.” VA does not believe that it is prudent to unduly limit flexibility by foreclosing every means of communication other than mailing, as would result from adoption of the commenter’s suggestion.

Presumptions are useful because they serve to establish critical facts when there is no contrary evidence. VA considers the proposed presumption “rebuttable.” If the information is furnished by mail and the date of the letter and the date of mailing do not actually match in a particular case, a party may easily rebut the presumption by submitting a copy of the postmarked envelope. The presumption may be rebutted in other cases by other appropriate evidence, depending on the means by which the information was furnished.

For the reasons stated in this document and in the preamble to the proposed rule, VA is adopting the rule as proposed, except for a nonsubstantive grammatical change.

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 rule may affect individual claimants for VA benefits and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirement of sections 603 and 604.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Unfunded Mandates

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

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Lawyers, Legal services, Veterans.

Approved: November 26, 2001.

Anthony J. Principi,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, amend 38 CFR part 20 as follows:

PART 20—BOARD OF VETERANS’ APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a) and as noted in specific sections.

2. Revise § 20.502 to read as follows:

§ 20.502 Rule 502. Time limit for response to appeal by another contesting party in a simultaneously contested claim.

A party to a simultaneously contested claim may file a brief or argument in answer to a Substantive Appeal filed by another contesting party. Any such brief or argument must be filed with the agency of original jurisdiction within 30 days from the date the content of the Substantive Appeal is furnished as provided in § 19.102 of this chapter. Such content will be presumed to have been furnished on the date of the letter that accompanies the content.

(Authority: 38 U.S.C. 7105A(b))

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRN–7112–6]

RIN: 2050–AE07

Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-from Rules: Delay of Effective Date; Reopening of Comment Period

ACTION: Delay of effective date and reopening of comment period.

SUMMARY: EPA issued a direct final rule in the *Federal Register* on October 3, 2001 at 66 FR 50332 entitled *Correction to the Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-from Rules; Direct Final Rule*. During and after the comment period for that direct final rule, U.S. mail delivery to EPA’s dockets was delayed due to concerns about possible contamination. This document delays the effective date of that direct final rule and reopens the comment period for thirty days to assure that EPA receives any comments that were mailed during

the comment period but were not received by EPA by the end of the comment period. EPA is requesting that anyone who submitted comments during the previous comment period resubmit those comments as described below.

DATES: This action is made on December 3, 2001. The effective date of the Correction to the Hazardous Waste Identification Rule, amending 40 CFR 261.3 published in the *Federal Register* on October 3, 2001 at 66 FR 50332, is delayed for 60 days, from December 3, 2001 to a new effective date of February 1, 2002. That direct final rule will be effective on February 1, 2002 unless EPA receives adverse comment by January 2, 2002.

ADDRESSES: Please send an original and two copies of your comments referencing Docket number F–2001–WH3P–FFFFF to (1) if using regular U.S. Postal Service mail: RCRA Docket Information Center, Office of Solid Waste (5305W), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0002, or (2) if delivering in person, or using special delivery, such as overnight express service: RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia 22202. Because of possible mail delays in the Washington DC area, please send a separate copy of each public comment either (1) via Internet email to rcra-docket@epamail.epa.gov, or (2) to David M. Friedman, U.S. EPA Region 3, Mail Code 3WC11, 1650 Arch Street, Philadelphia, PA 19103–2029. If sending comments via email, please make sure this electronic copy is in an ASCII format that doesn’t use special characters or encryption. Cite the docket Number F–2001–WH3P–FFFFF in your electronic file.

The RCRA Information Center is located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington Virginia. If you would like to look at and copy supporting information for RCRA rules, please make an appointment with the RCRA Information Center by calling (703) 603–9230. Docket hours are from 9:00 A.M. to 4:00 P.M. Monday through Friday, except for Federal holidays. You may copy up to 100 pages from any regulatory document at no cost. Additional copies cost \$0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Call Center at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area,