

**DEPARTMENT OF DEFENSE****Department of the Army, Corps of Engineers****33 CFR Part 334****Department of Air Force, Wisconsin Air National Guard Danger Zone, R-6903, Lake Michigan, Sheboygan County, Wisconsin**

**AGENCY:** United States Army Corps of Engineers, DoD.

**ACTION:** Notice of proposed rulemaking and request for comments.

**SUMMARY:** The U.S. Corps of Engineers is proposing regulations to reestablish a Danger Zone in Lake Michigan offshore from Sheboygan County, Wisconsin. These regulations will enable the Wisconsin Air National Guard (WiANG) to ensure the safety of fishermen and mariners in the vicinity of a live fire exercise area, which is located off the Wisconsin shoreline in Lake Michigan from Manitowoc to Port Washington, Wisconsin. The regulations are necessary to protect fishermen and mariners from potentially hazardous conditions which may exist as a result of WiANG's use of the area.

**DATES:** Written comments must be submitted on or before April 10, 2002.

**ADDRESSES:** U. S Army Corps of Engineers, ATTN: CECW-OR, 441 G Street, NW., Washington, DC 20314-1000.

**FOR FURTHER INFORMATION CONTACT:** Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, D.C. at (202) 761-4618, or Mr. Howard J. Ecklund, Corps of Engineers, St. Paul District, Regulatory Branch, at (262) 547-4171.

**SUPPLEMENTARY INFORMATION:** Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps proposes to amend the restricted area regulations in 33 CFR part 334 by adding section 334.845 which establishes a danger zone in Lake Michigan offshore from Manitowoc and Sheboygan Counties, Wisconsin. The public currently has unrestricted access to the waters of Lake Michigan in close proximity to WiANG's exercise area. To better protect fishermen and mariners, the WiANG has requested the Corps of Engineers establish this danger zone that will enable the WiANG to continue to use this area to maintain its combat mission readiness.

**Procedural Requirements***a. Review under Executive Order 12866*

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

*b. Review under the Regulatory Flexibility Act*

These proposed rules have been reviewed under the Regulatory Flexibility Act (Public Law 96-354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small Governments). The Corps expects that the economic impact of the reestablishment of this danger zone would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal if adopted, will have no significant economic impact on small entities.

*c. Review under the National Environmental Policy Act*

An environmental assessment has been prepared for this action. We have concluded, based on the minor nature of the proposed danger zone regulations, that this action, if adopted, will not have a significant impact to the quality of the human environment, and preparation of an environmental impact statement is not required. The environmental assessment may be reviewed at the District office listed at the end of **FOR FURTHER INFORMATION CONTACT** paragraph above.

*d. Unfunded Mandates Act*

This proposed rule does not impose an enforceable duty among the private sector and, therefore, it is not a Federal private sector mandate and it is not subject to the requirements of either Section 202 or Section 205 of the Unfunded Mandates Act. We have also found under Section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

**List of Subjects in 33 CFR Part 334**

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334, as follows:

**PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS**

1. The authority citation for 33 CFR part 334 continues to read as follows:

**Authority:** 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.845 would be added to read as follows:

**§ 334.845 Wisconsin Air National Guard, Volk Field military exercise area located in Lake Michigan offshore from Manitowoc and Sheboygan Counties; Danger Zone.**

(a) *The area.* The waters within an area beginning at a point at latitude 43°19'00" N., longitude 87°41'00" W.; to latitude 44°05'30" N, longitude 87°29'45" W.; to latitude 44°02'00" N., longitude 87°02'30" W.; to latitude 43°15'30" N., longitude 87°14'00" W.; thence to the point of beginning.

(b) *The regulation.* (1) All vessels entering the danger zone shall proceed across the area by the most direct route and without unnecessary delay.

(2) No vessel or craft of any size shall lie-to or anchor in the danger zone at any time other than a vessel operated by or for the U.S. Coast Guard, local, State, or Federal law enforcement agencies.

(c) *Enforcement.* The regulation in this section shall be enforced by the Commanding Officer, Volk Field, WI and/or persons or agencies as he/she may designate.

Dated: February 26, 2002.

**Lawrence A. Lang,**

*Deputy, Operations Division, Directorate of Civil Works.*

[FR Doc. 02-5655 Filed 3-8-02; 8:45 am]

**BILLING CODE 3710-92-P**

**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 3****RIN 2900-AK97****Time Limit for Requests for *De Novo* Review**

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

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs (VA) adjudication regulations concerning the time a claimant has in which to request a *de novo* review of a claim at the Veterans Service Center level after filing a Notice of Disagreement (NOD). We believe this amendment will eliminate unnecessary delays in the appeals process without adversely affecting claimants.

**DATES:** Comments must be received on or before May 10, 2002.

**ADDRESSES:** Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273-9289; or e-mail comments to [OGCRegulations@mail.va.gov](mailto:OGCRegulations@mail.va.gov). Comments should indicate that they are submitted in response to "RIN 2900-AK97." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Bill Russo, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273-7211.

**SUPPLEMENTARY INFORMATION:** Under existing statutes and regulations, a claimant who disagrees with a decision by a Veterans Service Center may appeal that decision by filing a NOD. Upon receipt of a NOD, VA must "take such development or review action as it deems proper under the provisions of regulations not inconsistent with [title 38 U.S. Code]." 38 U.S.C. 7105(d)(1). If this development or review does not resolve the disagreement, either by VA granting the claim or the claimant withdrawing the NOD, then VA must issue a Statement of the Case (SOC). After receiving the SOC, the claimant may continue their appeal, to the Board of Veterans' Appeals, by filing a Substantive Appeal.

Title 38 CFR 3.2600 allows claimants who have filed a timely NOD to obtain a *de novo* review by Veterans Service Center personnel. This new, optional review process was established through a final regulation published May 2, 2001 (66 FR 21871-21874). This document proposes to amend 38 CFR 3.2600 to reduce the time limit in which claimants may request a *de novo* review (a new and complete review with no deference given to the decision being reviewed) by Veterans Service Center personnel. Section 3.2600(b) currently states that unless a claimant has requested review under § 3.2600 with his or her NOD, VA will, upon receipt of the NOD, notify the claimant in writing of his or her right to a review under this section. Section 3.2600(b) further states that to obtain such a review, the claimant must request it not later than 60 days after the date VA mails the notice and that this time limit may not be extended. It also states that if the claimant fails to request *de novo*

review within 60 days, VA will proceed with the traditional appellate process by issuing a SOC.

This rulemaking proposes to reduce that 60-day period to 15 days, in order to eliminate unnecessary delays in the appeals process. Under current § 3.2600(b), VA must wait up to 60 days from the date on which VA notifies a claimant of their right to a *de novo* review, before it may issue a SOC. If the claimant does not wish to have the Veterans Service Center review the claim *de novo*, this delays the appeals process by 60 days.

In VA's experience, many claimants or their representatives request *de novo* review along with their NOD. For those who do not, we believe that 15 days is enough time to decide whether to request a *de novo* review. Furthermore, by reducing the period during which VA will accept a request for *de novo* review from 60 to 15 days, we reduce the time needed to process an NOD by 45 days, no matter which option the claimant chooses.

#### Paperwork Reduction Act

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

#### Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

#### Regulatory Flexibility Act

The Secretary hereby certifies that the adoption of this proposed rule would 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. The proposed rule does not directly affect any small entities. Only VA beneficiaries are directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 64.109, 64.110, and 64.127.

#### List of Subjects in 38 CFR Part 3

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

For the reasons set forth in the preamble, 38 CFR part 3 is proposed to be amended as follows:

## PART 3—ADJUDICATION

### Subpart D—Universal Adjudication Rules That Apply to Benefit Claims Governed by Part 3 of This Title

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

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

2. In § 3.2600, paragraph (b) is revised to read as follows:

#### § 3.2600 Review of benefit claims decisions.

\* \* \* \* \*

(b) Unless the claimant has requested review under this section with his or her Notice of Disagreement, VA will, upon receipt of the Notice of Disagreement, notify the claimant in writing of his or her right to a review under this section. To obtain such a review, the claimant must request it not later than 15 days after the date VA mails the notice. This 15-day time limit may not be extended. If the claimant fails to request review under this section not later than 15 days after the date VA mails the notice, VA will proceed with the traditional appellate process by issuing a Statement of the Case. A claimant may not have more than one review under this section of the same decision.

\* \* \* \* \*

Approved: October 17, 2001.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

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**BILLING CODE 8320-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[CC Docket 96-45; FCC 02-41]

### Federal-State Joint Board on Universal Service

**AGENCY:** Federal Communications Commission

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Commission seeks comment on issues from the *Ninth Report and Order* remanded by the United States Court of Appeals for the Tenth Circuit. Specifically, the court remanded the *Ninth Report and Order*, to the Commission to "establish an adequate legal and factual basis for the Ninth Order and, if necessary, to reconsider the operative mechanism promulgated in that Order." The Commission seeks