The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities because vessel traffic would be allowed to pass through the zone with the permission of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they may 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).

Collection of Information

This temporary regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this temporary regulation under Executive Order 13132 and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

Taking of Private Property

This rule would 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 the 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 concern 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.

Environment

The Coast Guard has considered the environmental impact of this temporary regulation and concluded that, under Figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1C, it will have no significant environmental impact and it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist will be available for inspection and copying in the docket to be maintained at the address listed in **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

Regulation

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 33 CFR 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, and 160.5; 49 CFR 1.46.

2. A new section 165.T11–037 is added to read as follows:

§ 165.T11–037 Security Zone: San Diego, CA.

(a) *Location.* The following area is a security zone: the waters of San Diego Bay extending approximately 100 feet from the north, west, and south sides of the Naval Supply Center Pier enclosed by lines connecting the following points: Beginning at 32°42′50″ N, 117°10′25″ W (Point A); to 32°42′50″ N, 117°10′38″ W (Point B); to 32°42′54″ N, 117°10′38″ W (Point C); to 32°42′54″ N, 117°10′25″ W (Point D).

(b) *Effective Dates.* This temporary regulation is effective May 2, 2001 through October 29, 2001.

(c) In accordance with the general regulations in section 165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port or the Commanding Officer, Naval Base, San Diego. Section 165.33 also contains other general requirements.

(d) The U.S. Navy may assist the U.S. Coast Guard in the patrol and enforcement of this security zone.

Dated: April 6, 2001.

S.P. Metruck,

Commander, U.S. Coast Guard, Captain of the Port, San Diego.

[FR Doc. 01–10713 Filed 5–1–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP San Diego 01–008]

RIN 2115–AA97

Security Zone; San Diego Bay

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone at Naval Base, San Diego, California, at the request of the U.S. Navy. The temporary security zone will expand across the mouth of Chollas Creek. This security zone is needed to ensure the physical protection of naval vessels moored at Naval Base, San Diego.

DATES: This temporary regulation is effective May 2, 2001 through October 29, 2001.

ADDRESSES: Coast Guard Marine Safety Office, 2716 North Harbor Drive, San Diego, CA, 92101–1064, (619) 683–6495.

FOR FURTHER INFORMATION CONTACT: Lieutenant Kathleen Garza, USCG, c/o U.S. Coast Guard Captain of the Port, telephone (619) 683–6495.

SUPPLEMENTARY INFORMATION:

Regulatory Information

A notice of proposed rulemaking (NPRM) for a permanent rulemaking of this regulation is in process. However, under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for making this regulation effective immediately. Publishing a NPRM and delaying the effective date would be contrary to the interest of national security. Due to the recent terrorist attack on a U.S. Navy vessel, the Navy has a heightened level of concern with regards to all its vessels and their crews. As a result, the Navy has determined a need for increased security measures for their vessels and crewmembers while berthed at Naval Base, San Diego. To accomplish this goal, a temporary security zone is needed to protect vessels while they are berthed at U.S. Naval Base, San Diego. Due to the need to protect these vessels and their crews, delaying the effective date would be contrary to national security. At the same time, we are inviting public comment on the security zone via the publication of an NPRM. This temporary regulation will be removed once comments to the NPRM are analyzed and a Final Rule is published.

Background and Purpose

The Coast Guard is establishing this temporary security zone, to enclose the mouth of Chollas Creek so that unauthorized vessels or persons cannot transit into Chollas Creek.

This temporary security zone is needed to ensure the physical protection of naval vessels moored in the area. This security zone will also prevent recreational and commercial craft from interfering with military operations involving all naval vessels home-ported at Naval Base, San Diego and it will protect transiting recreational and commercial vessels, and their respective crews, from the navigational hazards posed by such military operations. In addition, the Navy has been reviewing all aspects of its anti-terrorism and force protection posture in response to the attack on the USS *Cole.* The modification and expansion of this security zone will safeguard vessels and waterside facilities from destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of a similar nature. Entry into, transit through, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port, the Commander, Naval Base San Diego, or the Commanding Officer, Naval Station, San Diego.

Vessels or persons violating this section would be subject to the penalties set forth in 50 U.S.C. 192 and 18 U.S.C. 3571: seizure and forfeiture of the vessel, a monetary penalty of not more than $250,000, and imprisonment for not more than 10 years.

The U.S. Coast Guard may be assisted in the patrol and enforcement of this security zone by the U.S. Navy.

Regulatory Evaluation

This temporary regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 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. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This regulation will have minimal additional impact on vessel traffic because it is only a slight modification and expansion of the existing security zone codified at 33 CFR 165.1102.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this regulation would have 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 would not have a significant economic impact on a substantial number of small entities because vessel traffic would be allowed to pass through the zone with the permission of the Captain of the Port.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they may 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).

Collection of Information

This temporary regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

The Coast Guard has analyzed this temporary regulation under Executive Order 13132 and has determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule would not impose an unfunded mandate.

Taking of Private Property

This temporary rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630m Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This temporary rule meets the 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 concern 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.

Environment

The Coast Guard has considered the environmental impact of this temporary regulation and concluded that, under Figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1C, it will have no significant environmental impact and it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist will be available for inspection and copying in the docket to be maintained at the address listed in **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

Regulation

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 33 CFR 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, and 160.5; 49 CFR 1.46.

2. Add section 165.T11–036 to read as follows:

§ 165.T11–036 Security Zone: San Diego Bay, CA.

(a) *Location.* The following area is a security zone: the water area within Naval Station, San Diego enclosed by the following points: Beginning at 32°41′16.5″ N, 117°08′01″ W (Point A); thence running southwesterly to 32°41′06″ N, 117°08′09.3″ W (Point B); thence running southeasterly along the U.S. Pierhead Line to 32°39′36.9″ N, 117°07′23.5″ W (Point C); thence running easterly to 32°39′38.5″ N, 117°07′06.5″ W (Point D); thence running generally northwesterly along the shoreline of the Naval Station to the place of beginning.

(b) *Effective Dates.* This temporary regulation is effective May 2, 2001 through October 29, 2001.

(c) *Regulations.* In accordance with the general regulations in section 165.33 of this part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port or the Commanding Officer, Naval Base, San Diego.

(d) The U.S. Navy may assist the U.S. Coast Guard in the patrol and enforcement of this security zone.

Dated: April 6, 2001.

S.P. Metruck,

Commander, U.S. Coast Guard, Captain of the Port, San Diego.

[FR Doc. 01–10712 Filed 5–1–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AJ99

Review of Benefit Claims Decisions

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document concerns the Department of Veterans Affairs' (VA) adjudication regulations. We are adding new provisions to allow any claimants who file a timely Notice of Disagreement to obtain a de novo review of their claims at the Veterans Service Center level before deciding whether to proceed with the traditional appeal process. This is intended to provide a more efficient means for resolving disagreements concerning claims.

DATES: *Effective Date:* June 1, 2001.

FOR FURTHER INFORMATION CONTACT: Bill Russo, Attorney-Advisor, Compensation and Pension Service, or John Bisset, Jr., Consultant, Compensation and Pension Service, Regulations Staff, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7210 and (202) 273–7213, respectively.

SUPPLEMENTARY INFORMATION: On February 18, 2000, VA published in the **Federal Register** (65 FR 8329–8330), a proposed rule which would establish provisions at 38 CFR 3.2600 to allow any claimants who file a timely Notice of Disagreement to obtain a de novo review (a new and complete review with no deference given to the decision being reviewed) by Veterans Service Center personnel before deciding whether to proceed with the traditional appeal process. We received written comments from American Veterans of WWII, Korea and Vietnam (AMVETS), Florida Department of Veterans' Affairs, National Organization of Veterans Advocates, Paralyzed Veterans of America, Veterans of Foreign Wars (Department of Maine), three VA employees and two concerned private individuals.

Potential Changes to the Traditional Appeal Process

We proposed to establish a new de novo review procedure that would be available to any claimant who files a Notice of Disagreement with a decision on a claim governed by 38 CFR part 3. We did not, and do not, intend the new de novo review procedure to change the procedures or rights involved with appealing such claims decisions to the Board of Veterans' Appeals. We intend it to be an additional, optional procedure to be conducted, if at all, between a claimant's filing a Notice of Disagreement and VA's issuance of a Statement of the Case. If de novo review under § 3.2600 is not requested with the Notice of Disagreement or after the Notice of Disagreement is filed but within 60 days after VA mails notice of the right of such review to the claimant, then the appeal will proceed in accordance with the traditional appeal process. However, a claimant may not pursue de novo review and the traditional appeal simultaneously. A traditional appeal is suspended until de novo review is complete. Otherwise, there would be a risk of duplicative development and inconsistent decisions made in the same claim.

Two commenters stated that the proposed regulations are unclear as to whether they change existing procedures regarding filing and processing of the Notice of Disagreement and the issuance of the Statement of the Case.

The final rule does not modify the procedures of the traditional appeal process. To make this clear, we are amending the proposed rule in two respects. At the end of § 3.2600(b), we are adding language that provides that if a claimant fails to timely request de novo review under § 3.2600, VA will proceed with the traditional appellate process by issuing a Statement of the Case. For clarity, we are also adding a sentence to § 3.2600(b) to preclude any extension of the time limit. Section 3.109(b) allows for a good cause extension of time limits within which a claimant is required to act to perfect a claim or challenge an adverse VA decision. Since the de novo review process is an optional procedure, not a required one, § 3.109(b) does not apply to the period during which a claimant may request the de novo review process. Moreover, VA believes that a 60-day time limit, without the possibility of extension, is a reasonable amount of time for a claimant to decide whether to opt for the de novo review process.