FURTHER INFORMATION CONTACT section above.

E. 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 (adjusted for inflation) 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.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting 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, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–750 to read as follows:

§ 165.T11–750 Safety Zone; Morro Bay Breaking Bar; Morro Bay Harbor Entrance; Morro Bay, CA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Morro Bay Harbor Entrance in approximate coordinates: from a point on the shoreline at 35°22.181′ N. 120°52.207′ W., thence westward to 35°22.181′ N. 120°52.538′ W., thence southward to 35°21.367′ N. 120°52.538′ W., thence eastward to a point on the shoreline at 35°21.366′ N. 120°51.717′ W., thence northward along the shoreline to a point inside the Morro Bay Harbor to 35°22.153′ N. 120°51.698′ W., thence northwestward to a point on land at 35°22.233′ N. 120°51.847′ W., thence southward along the shoreline to the beginning. These coordinates are based on North American Datum of 1983.

(b) *Definitions.* For the purposes of this section:

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Los Angeles—Long Beach (COTP) in the enforcement of the safety zone.

Rough Bar means any swell, breaking surf, or wind conditions that create safety hazards. This includes but is not limited to, breaking surf 8 feet of greater or extreme steep or confused swell in the main channel or in the judgment of the COTP or the COTP's designated representative rough conditions exist.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, hail Coast Guard Station Morro Bay on VHF–FM Channel 16 or call at (805) 772–2167. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This rule is effective from 12:01 a.m. December 9, 2015 until February 29, 2016 11:59 p.m. The safety zone will only be enforced when the COTP or her designated representative deems it necessary because of the rough bar conditions, and enforcement will cease immediately upon conditions returning to safe levels.

Dated: December 6, 2015.

J.F. Williams,

Captain, U.S. Coast Guard, Captain of the Port Los Angeles—Long Beach.

[FR Doc. 2015–32734 Filed 12–28–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 14

RIN 2900–AP28

Removal of Requirement To File Direct-Pay Fee Agreements With the Office of the General Counsel

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its regulations concerning the payment of fees for representation by agents and attorneys in proceedings before VA. Specifically, this rule removes the requirement that an agent or attorney file a direct-pay fee agreement with both the VA Office of the General Counsel and the agency of original jurisdiction. The intended effect of this final rule is to require that direct-pay fee agreements be submitted only to the agency of original jurisdiction, thereby eliminating duplicate filings by agents and attorneys.

DATES: *Effective Date:* This rule is effective December 29, 2015.

Applicability Date: The provisions of this final rule shall apply to all fee agreements transmitted to VA on or after December 29, 2015.

FOR FURTHER INFORMATION CONTACT: Dana Raffaelli, Staff Attorney, Office of the General Counsel (022O), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7699. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION: This rule amends 38 CFR part 14 to remove the requirement that agents and attorneys file direct-pay fee agreements with the VA Office of the General Counsel in Washington, DC. Current provisions in 38 CFR 14.636(g) and (h) require agents and attorneys to file direct-pay fee agreements with both the Office of the General Counsel and the agency of original jurisdiction. Removal of this requirement will eliminate administrative burdens associated with these direct-pay fee agreements. Agents and attorneys will be relieved from filing direct-pay fee agreements with the Office of the General Counsel, and the

Office of the General Counsel will no longer be required to process and maintain those fee agreements. In cases where it is necessary for the Office of the General Counsel to review fee agreements for reasonableness, such agreements may be called to our attention and copies of the agreements may be provided to the Office of the General Counsel by claimants or the agencies of original jurisdiction.

Current 38 CFR 14.636(g)(2) and (g)(3) requires agents and attorneys to file all fee agreements with the Office of the General Counsel in Washington, DC, and to clearly specify in the agreement whether VA is to directly pay the agent or attorney fees out of an award of past-due benefits. Current 38 CFR 14.636(h)(4) requires agents and attorneys to notify the agency of original jurisdiction, within 30 days of the date of execution of the agreement, of the existence of a direct-pay fee agreement and also provide the agency of original jurisdiction with a copy of the agreement.

The requirement that all fee agreements be filed with the Office of the General Counsel was established in 2008. *See* 73 FR 29852, May 22, 2008. Prior to June 20, 2007, agents and attorneys were required to file all fee agreements with the Board of Veterans' Appeals (Board) because agents and attorneys could not charge fees for services provided to VA claimants until after the Board had first made a final decision in the case. *See* 38 U.S.C. 5904(c)(1), (c)(2) (2002); *see also* 38 CFR 20.609(g) (2007). However, on December 22, 2006, Congress enacted Public Law 109–461, which allowed agents and attorneys to charge fees after the filing of a notice of disagreement in a case and required them to file any fee agreements ''with the Secretary pursuant to regulations prescribed by the Secretary'' rather than with the Board. Public Law 109–461, § 101(d); *see* 38 U.S.C. 5904(c)(1), (c)(2); *see also* Public Law 109–461, § 101(h) (2006) (amendments to statutory fee requirements effective June 20, 2007).

On May 22, 2008, VA implemented the statutory amendments regarding fees in § 14.636 (formerly § 20.609 (2007)), one of which directs attorneys and agents to file all fee agreements with the Office of the General Counsel in Washington, DC. *See* 73 FR 29852; 38 CFR 14.636(g)(3). However, in addition to filing all fee agreements with the Office of the General Counsel, § 14.636(h)(4) requires that direct-pay fee agreements also be filed with the agency of original jurisdiction, so that the agency of original jurisdiction could make an initial determination regarding an agent or attorney's eligibility for fees following an award of past-due benefits and withhold fees from the award when an agent or attorney is found eligible for fees.

The revisions to § 14.636(g)(3) and (h)(4) eliminate the requirement for agents and attorneys to file a direct-pay fee agreement with the Office of the General Counsel. Any fee agreement calling for the direct payment of fees out of any past-due benefits now must be filed only with the agency of original jurisdiction. The agency of original jurisdiction is the most appropriate location for such filings as that entity must determine when direct payment of fees is called for and authorize the correct payment. The agency of original jurisdiction will file the fee agreement in the claimant's electronic claims file contained in Veterans Benefits Administration's electronic database, the Veterans Benefits Management System (VBMS), and associate the attorney or agent's Power of Attorney (POA) code—meaning the three digit code that was assigned to the attorney or agent at the time of his or her VA accreditation—with the claimant's claim file. *See* M21–1, pt. III, ch.3 sec. C.5. The association of attorneys' and agents' POA codes with the claimants' files will allow VA to retrieve, from VBMS, a list of the claims for which an attorney or agent has entered his or her appearance, by filing a VA Form 21–22a, Appointment of Individual as Claimant's Representative, with VA. An attorney or agent may look up their POA code through the search feature on the accreditation Web page's Web site at: *http://www.va.gov/ogc/apps/accreditation/index.asp*—with the claimant's file.

Fee agreements that do not provide for the direct payment of fees must still be filed with the Office of the General Counsel.

The Office of the General Counsel retains authority to review all fee agreements for reasonableness in light of the services that the attorney or agent provided on a claim and the authority to review any fee agreement for eligibility that has not undergone review by another agency of original jurisdiction. *See* 38 CFR 14.636(i). In a reasonableness-review case involving a direct-pay fee agreement, the Office of the General Counsel will obtain a copy of the direct-pay fee agreement from the agency of original jurisdiction at which the agreement was filed. This will generally be accomplished by retrieving the document from VBMS.

VA also makes an additional conforming amendment to 38 CFR 14.637(b) to reference fee agreements filed with either the Office of the General Counsel or the agency of original jurisdiction under § 14.636.

Administrative Procedure Act

This final rule is a procedural rule that does not impose new rights, duties, or obligations on affected individuals but, rather, eliminates duplicate filings under the statutory requirement that agents and attorneys file a copy of a fee agreement ''with the Secretary.'' *See* 38 U.S.C. 5904(c)(2). Therefore, it is exempt from the prior notice-and-comment and delayed-effective-date requirements of 5 U.S.C. 553. *See* 5 U.S.C. 553(b)(A) and (d)(3). This rule merely removes the prior requirement for attorneys and agents to file copies of any direct-pay fee agreement with both the Office of the General Counsel and the agency of original jurisdiction. Attorneys and agents must now file a copy of any direct-pay fee agreement with the agency of original jurisdiction and all other fee agreements with the Office of the General Counsel.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number. *See also* 5 CFR 1320.8(b)(3)(vi).

Section 14.636 of title 38 of the Code of Federal Regulations contains collections of information under the Paperwork Reduction Act of 1995, which OMB approved under control number 2900–0605. This final rule will amend § 14.636(g)(3) and (h)(4) to remove the requirement that an agent or attorney file a direct-pay fee agreement with both the Office of the General Counsel and the agency of original jurisdiction, *i.e.,* the VA regional office. The intended effect of this amendment is to require that direct-pay fee agreements be submitted only to the agency of original jurisdiction, thereby eliminating duplicate filings by agents and attorneys. As required by the Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507(d)), VA submitted this amended information collection to OMB for its review. OMB approved the amended information collection requirements under existing OMB control number 2900–0605.

We also note that, in 2008, VA did not amend § 14.636 to reflect the OMB control number. Therefore, we are also

amending § 14.636 to reflect that the correct OMB control number is 2900–0605.

Regulatory Flexibility Act

The initial and final regulatory flexibility analyses requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule, because a notice of proposed rulemaking is not required for this rule. Even so, 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. At a minimum, this rule will affect only the attorneys and agents who file fee agreements with the Office of the General Counsel. However, it will not have a significant economic impact on these individuals, as it will result in modest savings for affected attorneys and agents who will avoid the expense of duplicate filings. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by OMB, unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www.va.gov/orpm/,* by following the link for VA Regulations Published From FY 2004 to FYTD.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

There are no Federal Domestic Assistance programs associated with this final rule.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Nabors II, Chief of Staff, Department of Veterans Affairs, approved this document on December 22, 2015, for publication.

List of Subjects in 38 CFR Part 14

Administrative practice and procedure, Claims, Courts, Foreign relations, Government employees, Lawyers, Legal services, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Surety bonds, Trusts and trustees, Veterans.

Dated: December 23, 2015.

William F. Russo

Director, Office of Regulation Policy & Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set out in the preamble, the Department of Veterans Affairs amends 38 CFR part 14 as follows:

PART 14—LEGAL SERVICES, GENERAL COUNSEL, AND MISCELLANEOUS CLAIMS

■ 1. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 2671–2680; 38 U.S.C. 501(a), 512, 515, 5502, 5901–5905; 28 CFR part 14, appendix to part 14, unless otherwise noted.

■ 2. Amend § 14.636 by:

■ a. Revising paragraph (g)(3).

■ b. Revising paragraph (h)(4).

■ c. Revising the parenthetical at the end of the section.

The revisions read as follows:

§ 14.636 Payment of fees for representation by agents and attorneys in proceedings before Agencies of Original Jurisdiction and before the Board of Veterans' Appeals.

* * * * *

(g) * * *

(3) A copy of a direct-pay fee agreement, as defined in paragraph (g)(2) of this section, must be filed with the agency of original jurisdiction within 30 days of its execution. A copy of any fee agreement that is not a direct-pay fee agreement must be filed with the Office of the General Counsel within 30 days of its execution by mailing the copy to the following address: Office of the General Counsel (022D), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. Only fee agreements that do not provide for the direct payment of fees, documents related to review of fees under paragraph (i) of this section, and documents related to review of expenses under § 14.637, may be filed with the Office of the General Counsel. All documents relating to the adjudication of a claim for VA benefits, including any correspondence, evidence, or argument, must be filed with the agency of original jurisdiction, Board of Veterans' Appeals, or other VA office as appropriate.

(h) * * *

(4) As required by paragraph (g)(3) of this section, the agent or attorney must file with the agency of original jurisdiction within 30 days of the date of execution a copy of the agreement providing for the direct payment of fees out of any benefits subsequently determined to be past due.

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0605.)

§ 14.637 [Amended]

■ 3. Amend § 14.637, paragraph (b), by removing ''under § 14.636'' and adding, in its place, ''or the agency of original jurisdiction under § 14.636''.

[FR Doc. 2015–32687 Filed 12–28–15; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 200

[Docket No. 150227193–5999–02]

RIN 0648–BE92

Establish a Single Small Business Size Standard for Commercial Fishing Businesses

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to establish a small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411), for Regulatory Flexibility Act (RFA) compliance purposes only. For the purposes of this final rule, a ''commercial fishing business'' is a business primarily engaged in commercial fishing, the ''commercial fishing industry'' is composed of all such businesses, and the $11 million standard only applies to this industry. This standard does not apply to businesses primarily engaged in seafood processing (NAICS 311170), seafood wholesale activities (NAICS 424460), or any other activity within the seafood industry. The $11 million standard will be used in RFA analyses in place of the U.S. Small Business Administration's (SBA) current standards of $20.5 million, $5.5 million, and $7.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry, respectively. Establishing a single size standard of $11 million for the commercial fishing industry will simplify the RFA analyses done in support of NMFS' rules, better meet the RFA's intent by more accurately representing expected disproportionate effects of NMFS' rules between small and large commercial fishing businesses, create a standard that more accurately reflects the size distribution of all businesses in the commercial fishing industry, and allow NMFS to determine when changes to the standard are necessary and appropriate.

DATES: This final rule is effective July 1, 2016.

ADDRESSES: Copies of the Regulatory Impact Review (RIR), proposed rule and associated comments are available via the Federal eRulemaking Portal: *http://www.regulations.gov,* docket NOAA–NMFS–2015–0061.

FOR FURTHER INFORMATION CONTACT: Mike Travis, Industry Economist, at (727) 209–5982, or email: *mike.travis@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

For the purposes of this final rule, a ''commercial fishing business'' is a business primarily engaged in commercial fishing and the ''commercial fishing industry'' (NAICS 11411) is composed of all such businesses. Prior to 2013, SBA had established a single small business size standard for all businesses in the commercial fishing industry. Since 2005, this standard had been $4 million in annual gross receipts (revenues). Effective July 22, 2013, SBA established significantly different and higher size standards for the three separate sectors of the industry (78 FR 37398, June 20, 2013): $19 million for commercial finfish fishing businesses (NAICS 114111), $5.0 million for commercial shellfish fishing businesses (NAICS 114112), and $7.0 million for other commercial marine fishing businesses (NAICS 114119). These standards were subsequently adjusted for inflation to $20.5 million, $5.5 million, and $7.5 million, respectively, via an interim final rule, effective July 14, 2014 (79 FR 33647, June 12, 2014). The Small Business Jobs Act of 2010 requires SBA to review all size standards every five years to account for changes in industry structure and market conditions. SBA is also required to assess the impact of inflation on its monetary-based size standards at least once every five years (13 CFR 121.102). However, as reflected by the timing of the two recent rulemakings adjusting the size standards, SBA is not required to conduct the reviews for these two purposes simultaneously. Thus, these size standards are likely to change on a regular basis.

Under the RFA, an agency must prepare an initial and final regulatory flexibility analysis (IRFA/FRFA) for each proposed and final rule, respectively, unless it certifies that a rule will not have a significant economic impact on a substantial number of small entities. Agencies generally rely on the SBA size standards to identify small entities for RFA purposes. For NMFS, rulemaking activities that have been impacted by changes to the size standards for defining ''small'' businesses include, but are not limited to, regulatory actions and analyses undertaken pursuant to the Magnuson-Stevens Act (MSA), Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), and National Environmental Policy Act (NEPA). Between 2012 and 2014, NMFS published an average of 285 final rules per year, more than 40 percent of which required an RFA analysis, and a majority of those directly regulated commercial fishing businesses. Thus, NMFS' costs of complying with the RFA are significant even when the small business size standards are stable, and those costs increase substantially when the standards are changing on a recurring basis.

NMFS and the Regional Fishery Management Councils (Councils) have encountered significant difficulties implementing and adjusting to the new standards because: (1) The change was from a single size standard for all commercial fishing businesses to three very different standards, (2) many commercial fishing businesses participate in both finfish and shellfish fishing activities, making it unclear which standard to apply in the RFA analyses, and (3) a number of rules simultaneously implement regulations under fishery management plans for both finfish and shellfish species (for *e.g.,* 76 FR 82044, December 29, 2011; 76 FR 82414, December 30, 2011; 77 FR 15916, March 26, 2012; and 80 FR 41472, July 15, 2015), again making it unclear which standard to apply in the RFA analyses.

Furthermore, one of the RFA's primary purposes is to determine if proposed regulations are expected to have disproportionate economic impacts on small businesses relative to large businesses and, if so, to consider alternatives that would minimize any significant adverse economic impacts on small businesses. Under SBA's current standards for commercial fishing businesses, practically all commercial fishing businesses, and particularly commercial finfish fishing businesses, would likely be determined to be small. Thus, in their RFA analyses, NMFS and the Councils would not be able to discern, consider, or address any disproportionate economic impacts that various regulatory alternatives might have on businesses NMFS and the Councils think are ''small'' in the commercial fishing industry. Such an