

**ADDRESSES.** We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed 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.

#### **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### **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 proposes to amend 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.T07–0077 to read as follows:

#### **§ 165.T07–0077 Safety Zone; Daytona Beach Wings and Waves Air Show, Atlantic Ocean, Daytona Beach, FL.**

(a) *Regulated Area.* The following regulated area is a safety zone located offshore from Daytona Beach, FL. All waters of the Atlantic Ocean encompassed within an imaginary line connecting the following points: Starting at Point 1 in position 29°14'44.72" N., 081°0'46.90" W.; thence northeast to Point 2 in position 29°14'58.74" N., 081°0'16.18" W.; thence southeast to Point 3 in position 29°13'3.80" N., 080°59'21.78" W.; thence southwest to Point 4 in position 29°12'54.63" N., 080°59'53.87" W.; thence northwest back to origin. These coordinates are based on North American Datum 1983.

(b) *Definition.* The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Jacksonville in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Jacksonville or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Jacksonville by telephone at 904–714–7557, or a designated representative via VHF–FM radio on channel 16, to request authorization. If authorization is granted, all persons and vessels receiving such authorization must comply with the instructions of the COTP Jacksonville or a designated representative.

(3) The Coast Guard will provide notice of the regulated area through Broadcast Notice to Mariners via VHF–FM channel 16 or by on-scene designated representatives.

(d) *Enforcement Period.* This section will be enforced daily 11 a.m. to 4:30

p.m. from October 6 through October 9, 2016.

Dated: June 27, 2016.

**J.F. Dixon,**

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

[FR Doc. 2016–16331 Filed 7–8–16; 8:45 am]

**BILLING CODE 9110–04–P**

### **DEPARTMENT OF VETERANS AFFAIRS**

#### **38 CFR Part 38**

**RIN 2900–AP74**

#### **Authority To Solicit Gifts and Donations**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is proposing to amend its National Cemeteries regulation on the prohibition of officials and employees of VA from soliciting contributions from the public or authorizing the use of their names, name of the Secretary, or the name of VA for the purpose of making a gift or donation to VA. The amended regulation would give the Under Secretary of Memorial Affairs (USMA), or his designee, authority to solicit gifts and donations, which include monetary donations, in-kind goods and services, and personal property, or authorize the use of their names, the name of the Secretary, or the name of VA by an individual or organization in any campaign or drive for donation of money or articles to VA for the purpose of beautifying, or for the benefit of, one or more national cemeteries.

**DATES:** Comments must be received by VA on or before August 10, 2016.

**ADDRESSES:** Written comments may be submitted by email through <http://www.regulations.gov>; by mail or hand-delivery to Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. (This is not a toll-free number.)

Comments should indicate that they are submitted in response to “RIN 2900–AP74—Authority to Solicit Gifts and Donations.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1068, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 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:** Thomas Howard, Chief of Staff, National Cemetery Administration (NCA), Department of Veterans Affairs, (40A), 810 Vermont Avenue NW., Washington, DC 20420, (202) 461-6215. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Title 38 U.S.C. 2407 authorizes the Secretary of VA to “accept gifts, devises, or bequests from legitimate societies and organizations or reputable individuals, made in any manner, which are made for the purpose of beautifying national cemeteries, or are determined to be beneficial to such cemetery.” In 1978, VA published implementing regulations for this authority at 38 CFR 1.603 (now redesignated as 38 CFR 38.603). 43 FR 26572 (June 21, 1978). Included in this regulation, at § 38.603(b), is a prohibition on the solicitation of contributions from the public by any VA official or employee. Unfortunately, as was common at the time, the proposed and final rulemaking documents provide less information regarding the rationale for the regulations than is commonly provided today, so the full rationale for this regulation, including the reason for the prohibition on solicitations, is no longer available. The prohibition is not contained in the statutory authority at section 2407, nor does the plain language of the statute indicate a rationale for the prohibition. We propose to ease this restriction because it negatively impacts VA’s ability to fully realize the potential of its authority to accept gifts and donations for the benefit of the national cemeteries.

The gift and donation acceptance authority at section 2407 is just one of several authorities under which VA may accept gifts or donations that advance the mission or enhance the services that VA provides. These authorities include, among others, 38 U.S.C. 521 (acceptance of funds to support recreational activities furthering the rehabilitation of disabled veterans); 2406 (gifts of land for national cemeteries); 8103 and 8104 (acceptance of land, interests in land, or facilities for use as medical facilities); and 8301 (acceptance of gifts for use in carrying out all laws administered by VA). None of these statutory authorities nor any implementing regulations for any of the authorities, includes a provision like that contained in § 38.603(b), prohibiting the solicitation of contributions.

Legal guidance indicates that such a prohibition is not required by law. In

2015, VA’s Office of General Counsel (OGC) issued a precedent opinion concluding that VA’s express statutory authority to accept gifts under section 8301 included the implied statutory authority to solicit those gifts. VAOPGCPREC 2–2015, Mar. 20, 2015. Outside VA, a 2001 opinion from the Office of Legal Counsel (OLC) of the Department of Justice found that the broad statutory authority granted by Congress in section 403(b)(1) of the Office of Government Ethics Authorization Act of 1996 to accept gifts implies the authority to solicit gifts. 25 Op. OLC 55, Jan. 19, 2001. VA believes that section 2407 similarly contains an implied statutory authority to solicit gifts and donations for the benefit of the national cemeteries and that, by prohibiting use of that implied statutory authority, the provision in § 38.603(b), in addition to not being legally necessary, may impede VA’s ability to fully realize the authority provided to VA in section 2407. The ability of VA to operate other gift and donation programs under the authorities mentioned above, effectively and within legal parameters, in the absence of a prohibition on the ability of principals to solicit gifts and donations, indicates that a prohibition like that contained in § 38.603(b) is unnecessary.

Gifts and donations received by the national cemeteries under the authority of section 2407 have taken many forms, including monetary donations, donations of services and property (such as landscaping services or trees), and memorials and other commemorative works. Consistent with the plain language of the terms “gifts” and “donations,” we would clarify in the regulation that gifts and donations include monetary donations, in-kind goods and services, and personal property. These gifts and donations from generous persons and organizations enhance the experience of visitors to the national cemeteries. The prohibition contained in § 38.603(b) impedes VA’s ability to proactively advise donors or potential donors of gift and donation opportunities that could be beneficial to the national cemeteries. Although § 38.603(b) includes a provision that allows VA employees to discuss the “appropriateness” of a proposed gift, that discussion can only happen if a donor first approaches VA about a potential gift or donation. VA cannot proactively advise a donor that a particular gift or donation would be beneficial to the national cemeteries in general or any one national cemetery in particular. Easing the prohibition benefits not only the national cemeteries

by ensuring that gifts and donations are more likely to be beneficial, but also is beneficial to donors who may not know of opportunities to provide beneficial gifts and donations to the national cemeteries. Therefore, we would amend § 38.603(b) to provide that the USMA, or his designee, may solicit gifts and donations, which include monetary donations, in-kind goods and services, and personal property, or authorize the use of their names, the name of the Secretary, or the name of VA by an individual or organization in any campaign or drive for money or articles to VA for the purpose of beautifying, or for the benefit of, one or more national cemeteries.

While VA would ease the prohibition on solicitation of gifts and donations, the intent is not to remove the restriction in its entirety. VA maintains 133 national cemeteries, one national Veterans’ burial ground, and 33 soldiers’ lots and monument sites in 40 states and Puerto Rico, as national shrines, that is, places of honor and memory where visitors can sense the serenity, historic sacrifice, and nobility of purpose of those who have served in the military. The USMA is responsible for the operation of the national cemeteries and is in the best position to determine the appropriateness of any campaign to solicit gifts and donations. Although VA would replace the existing provision at § 38.603(b) with revised text that would allow the USMA or designee to solicit gifts and donations to VA for the purpose of beautifying, or for the benefit of, one or more national cemeteries, this rulemaking would not amend any other regulation governing solicitation or acceptance of gifts and donations under any other authority available to VA.

We propose to revise the authority citation for part 38 to include the statutory authority 38 U.S.C. 2407. We also propose to add this statutory authority at the end of § 38.603.

#### Administrative Procedure Act

Concurrent with this proposed rule, we are also publishing a separate, substantially identical direct final rule in this **Federal Register**. See RIN 2900–AP75. The simultaneous publication of these documents will speed notice and comment rulemaking under the Administrative Procedure Act (5 U.S.C. 553) should we have to withdraw the direct final rule due to receipt of a significant adverse comment.

For purposes of the direct final rulemaking, a significant adverse comment is one that explains why the rule would be inappropriate, including challenges to the rule’s underlying premise or approach, or why it would

be ineffective or unacceptable without change. If VA receives a significant adverse comment, VA will publish a notice of receipt of a significant adverse comment in the **Federal Register** and withdraw the direct final rule. In determining whether an adverse comment is significant and warrants withdrawing a direct final rule, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process in accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 553). Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered adverse under this procedure. For example, a comment recommending an additional change to the rule will not be considered a significant adverse comment unless the comment states why the rule would be ineffective or unacceptable without the additional change.

Under direct final rule procedures, if no significant adverse comment is received within the comment period, the direct final rule will become effective on the date specified in RIN 2900-AP75. After the close of the comment period, VA will publish a document in the **Federal Register** indicating that VA received no significant adverse comments and restating the date on which the final rule will become effective. VA will also publish a notice in the **Federal Register** withdrawing this proposed rule.

In the event that VA withdraws the direct final rule because of receipt of any significant adverse comment, VA will proceed with the rulemaking by addressing the comments received and publishing a final rule. The comment period for this proposed rule runs concurrently with that of the direct final rule. VA will treat any comments received in response to the direct final rule as comments regarding this proposed rule as well. VA will consider such comments in developing a subsequent final rule. Likewise, VA will consider any significant adverse comment received in response to the proposed rule as a comment regarding the direct final rule as well.

VA has determined that it is not necessary to provide a 60-day comment period for this rulemaking because the rulemaking does not establish duties or benefits affecting members of the public, but merely makes a minor modification concerning the authority of certain officials or employees to solicit gifts and donations for the benefit of VA national cemeteries. VA has instead specified that comments must be received within

30 days after date of publication in the **Federal Register**.

#### **Effect of Rulemaking**

The Code of Federal Regulations, to be revised by this proposed rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

#### **Paperwork Reduction Act**

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that 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. This proposed rule would only affect individuals and would not directly affect small entities. 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 the Office of Management and Budget (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 regulatory action 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 Through Fiscal Year to Date.”

#### **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 proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### **Catalog of Federal Domestic Assistance**

There are no Catalog of Federal Domestic Assistance program numbers and titles affected by this document.

#### **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. Gina S. Farrissee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on June 30, 2016, for publication.

Dated: June 30, 2016.

**Jeffrey Martin,**

*Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

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

Administrative practice and procedure, Cemeteries, Claims, Crime, Veterans.

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 38 as follows:

#### PART 38—NATIONAL CEMETERIES OF THE DEPARTMENT OF VETERANS AFFAIRS

- 1. Revise the authority citation for part 38 to read as follows:

**Authority:** 38 U.S.C. 107, 501, 512, 2306, 2402, 2403, 2404, 2407, 2408, 2411, 7105.

- 2. In § 38.603, revise paragraph (b) and add an authority citation to read as follows:

#### § 38.603 Gifts and donations.

\* \* \* \* \*

(b) The Under Secretary of Memorial Affairs, or his designee, may solicit gifts and donations, which include monetary donations, in-kind goods and services, and personal property, or authorize the use of their names, the name of the Secretary, or the name of the Department of Veterans Affairs by an individual or organization in any campaign or drive for donation of money or articles to the Department of Veterans Affairs for the purpose of beautifying, or for the benefit of, one or more national cemeteries.

(Authority: 38 U.S.C. 2407)

[FR Doc. 2016-16232 Filed 7-8-16; 8:45 am]

BILLING CODE 8320-01-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R07-OAR-2016-0313; FRL-9948-83-Region 7]

#### Approval and Promulgation of Implementation Plans; State of Kansas; Infrastructure SIP Requirements for the 2012 Annual Fine Particulate Matter (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve

elements of a State Implementation Plan (SIP) submission from the State of Kansas addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2012 annual PM<sub>2.5</sub> NAAQS. Section 110 requires that each state adopt and submit a SIP to support the implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by the EPA. These SIPs are commonly referred to as “infrastructure” SIPs. The infrastructure requirements are designed to ensure that the structural components of each state’s air quality management program are adequate to meet the state’s responsibilities under the CAA.

**DATES:** Comments must be received on or before August 10, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2016-0313, to <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Heather Hamilton, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219 at (913) 551-7039, or by email at [hamilton.heather@epa.gov](mailto:hamilton.heather@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we refer to EPA. A detailed technical support document (TSD) is included in this rulemaking docket to address the following: a description of CAA section 110(a)(1) and (2) infrastructure SIPs; the applicable elements under sections 110(a)(1) and (2); EPA’s approach to the review of infrastructure SIP

submissions, and EPA’s evaluation of how Kansas addressed the relevant elements of sections 110(a)(1) and (2). This section provides additional information by addressing the following questions:

- I. What is being addressed in this document?
- II. Have the requirements for approval of a SIP revision been met?
- III. What action is EPA taking?

#### I. What is being addressed in this document?

EPA is proposing to approve the infrastructure SIP submission received from the State of Kansas on November 25, 2015. The infrastructure SIP submission addresses the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2012 annual PM<sub>2.5</sub> NAAQS. A TSD is included as part of the docket to discuss the details of this proposal, including an analysis of how the SIP meets the applicable 110 requirements for infrastructure SIPs.

#### II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the TSD which is part of this docket, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

#### III. What action is EPA taking?

EPA is proposing to approve the November 25, 2015, infrastructure SIP submission from the State of Kansas which addresses the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2012 annual PM<sub>2.5</sub> NAAQS. The EPA’s analysis of the submission is addressed in a TSD as part of the docket to discuss the proposal.

Based upon review of the state’s infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in those submissions or referenced in Kansas’ SIP, EPA believes that Kansas’ SIP will meet all applicable required elements of sections 110(a)(1) and (2) with respect to the 2012 annual PM<sub>2.5</sub> NAAQS.

We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.