

Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final "Environmental Analysis Check List" is available in the docket where indicated under **ADDRESSES**.

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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. From 8 a.m., May 25, 2005, to 8 p.m. June 1, 2005, add temporary § 165.T01–053 to read as follows:

§ 165.T01–053 Security Zones; New York Marine Inspection Zone and Captain of the Port Zone.

(a) *Location.* The following waters within the New York Marine Inspection Zone and Captain of the Port Zone are security zones:

(1) *Stapleton Homeport Pier, Upper New York Bay, Staten Island, NY.* All waters of Upper New York Bay within approximately 400 yards of the Stapleton Homeport Pier bound by the following approximate positions: 40°38'00.6" N, 074°04'22.3" W, thence to 40°37'51.1" N, 074°03'46.5" W, thence to 40°37'27.5" N, 074°03'54.5" W, thence to 40°37'33.7" N, 074°04'20.8" W, (NAD 1983) thence along the shoreline to the point of origin.

(2) *New York City Passenger Ship Terminal and Intrepid Museum, Hudson River, Manhattan, NY.* All waters of the Hudson River within approximately 400 yards of Piers 86, 88, 90, and 92 bound by the following points: From the northeast corner of Pier 81 where it intersects the seawall, thence to approximate position 40°45'51.3" N, 074°00'2" W, thence to 40°46'27.7" N, 074°00'04.9" W, thence to the southeast corner of Pier 97 where it intersects the seawall.

(3) *2005 Fleet Week Parade of Ships and Navigational Periods, Port of New York/New Jersey.* All waters of the Port of New York/New Jersey within a 500-yard radius of each vessel participating in 2005 Fleet Week events while underway between Ambrose Light (LLNR 720) and the George Washington Bridge (river mile 11.0) on the Hudson River.

(b) *Enforcement period.* This section will be enforced from 8 a.m. on Wednesday, May 25, 2005, until 8 p.m. on Wednesday, June 1, 2005.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.33 apply.

(2) No vessel or person is allowed within 500 yards of a vessel protected by the security zone described in Paragraph (a)(3), unless authorized by the Captain of the Port or the designated on-scene-patrol personnel.

(3) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard, as well as all uniformed Federal, State, and local law enforcement personnel assisting with event patrol. Upon being hailed by a U.S. Coast Guard or other Federal, State, or local law enforcement vessel by siren, radio, flashing light, or other means, the operator of a vessel must proceed as directed.

Dated: May 17, 2005.

Glenn A. Wiltshire,

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

[FR Doc. 05–10361 Filed 5–23–05; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AK01

Compensated Work Therapy/ Transitional Residences Program; Correction

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; technical amendment.

SUMMARY: The Department of Veterans Affairs (VA) is reinstating regulations that were inadvertently removed by a previous rulemaking. This final rule technical amendment corrects that error and restores the missing regulations.

DATES: *Effective Date:* This technical amendment is effective May 24, 2005.

Applicability Date: September 17, 2002.

FOR FURTHER INFORMATION CONTACT:

Richard R. Robinson, Deputy Assistant General Counsel, Office of the General Counsel (023B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, 202.273.6334 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On January 31, 2002, VA published a final rule in the **Federal Register** (67 FR 4667) amending 38 CFR part 17 to establish provisions regarding housing under the Compensated Work Therapy/ Transitional Residences program (CWT). VA did this by redesignating the existing § 17.49 (Priorities for inpatient care) as § 17.48, and by adding a new § 17.49, Compensated Work Therapy/ Transitional Residences program. Subsequently, on September 17, 2002,

VA published an interim final rule in the **Federal Register** (67 FR 58528) to establish priorities for outpatient medical services and inpatient hospital care. In doing so, VA failed to consider the previous, January 31, 2002, amendment redesignating old § 17.49 as new § 17.48 and adding a new § 17.49. As a result, VA mistakenly instructed the CFR editor to revise § 17.49 instead of § 17.48. Consequently, the revision to § 17.49 erroneously removed the CWT rule and replaced it with the revised priority rule. In the CFR, the old priority rule (entitled "Priorities for inpatient care") is in § 17.48; the new priority rule (entitled "Priorities for outpatient medical services and inpatient hospital care") is in § 17.49; and the CWT rule was removed. To correct the inadvertent removal of the CWT rule, this final rule technical amendment revises 38 CFR 17.48 to reinstate the CWT rule originally published as a final rule in the **Federal Register** on January 31, 2002, at § 17.49.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: May 18, 2005.

Robert C. McFetridge,
Director, Regulations Management.

■ For the reasons set out above, 38 CFR part 17 is corrected as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

■ 2. Section 17.48 is revised to read as follows:

§ 17.48 Compensated Work Therapy/Transitional Residences program.

(a) This section sets forth requirements for persons residing in housing under the Compensated Work Therapy/Transitional Residences program.

(b) House managers shall be responsible for coordinating and supervising the day-to-day operations of the facilities. The local VA program

coordinator shall select each house manager and may give preference to an individual who is a current or past resident of the facility or the program. A house manager must have the following qualifications:

- (1) A stable, responsible and caring demeanor;
- (2) Leadership qualities including the ability to motivate;
- (3) Effective communication skills including the ability to interact;
- (4) A willingness to accept feedback;
- (5) A willingness to follow a chain of command.

(c) Each resident admitted to the Transitional Residence, except for a house manager, must also be in the Compensated Work Therapy program.

(d) Each resident, except for a house manager, must bi-weekly, in advance, pay a fee to VA for living in the housing. The local VA program coordinator will establish the fee for each resident in accordance with the provisions of paragraph (d)(1) of this section.

(1) The total amount of actual operating expenses of the residence (utilities, maintenance, furnishings, appliances, service equipment, all other operating costs) for the previous fiscal year plus 15 percent of that amount equals the total operating budget for the current fiscal year. The total operating budget is to be divided by the average number of beds occupied during the previous fiscal year and the resulting amount is the average yearly amount per bed. The bi-weekly fee shall equal 1/26th of the average yearly amount per bed, except that a resident shall not, on average, pay more than 30 percent of their gross CWT (Compensated Work Therapy) bi-weekly earnings. The VA program manager shall, bi-annually, conduct a review of the factors in this paragraph for determining resident payments. If he or she determines that the payments are too high or too low by more than 5 percent of the total operating budget, he or she shall recalculate resident payments under the criteria set forth in this paragraph, except that the calculations shall be based on the current fiscal year (actual amounts for the elapsed portion and projected amounts for the remainder).

(2) If the revenues of a residence do not meet the expenses of the residence resulting in an inability to pay actual operating expenses, the medical center of jurisdiction shall provide the funds necessary to return the residence to fiscal solvency in accordance with the provisions of this section.

(e) The length of stay in housing under the Compensated Work Therapy/Transitional Residences program is based on the individual needs of each

resident, as determined by consensus of the resident and his/her VA Clinical Treatment team. However, the length of stay should not exceed 12 months.

Authority: 38 U.S.C. 1772.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL-7916-6]

Notice of Availability of Class Deviation; Alternative State Allotment formula For FY 2005 Clean Water Act Section 106 Increase

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This document provides notice of the availability of a Class Deviation from EPA's allotment formula for the awarding of Clean Water Act (CWA) Section 106 grants and also sets forth an alternative formula that will apply for the \$9.92 million FY 2005 increase in EPA's appropriation for these grants. Currently, monies awarded under Section 106 of the Clean Water Act are allocated through allotment formulae for States, interstate agencies, and tribes. These formulae implement Section 106(b) of the CWA, which directs the EPA Administrator to make allotments for grants from sums appropriated by Congress in each fiscal year "in accordance with regulations promulgated by him on the basis of the extent of the pollution problem in the respective states." Because the President's FY 2005 budget request specifically requested an increase in Section 106 funding for FY 2005 enhanced monitoring activities, EPA determined through a Class Deviation that if it applied the current State allotment formula to that increase only a small number of States would actually receive an increase while the majority of States would not receive a sufficient increase to strengthen their water quality monitoring activities. The Class Deviation and the new allotment formula apply only to the \$9.92 million FY 2005 Section 106 increase and not to the remainder of the monies appropriated by Congress for these grants, which will be allocated in accordance with the allocation formulae EPA currently uses.

DATES: These procedures are effective upon May 24, 2005.