

*National Environmental Policy Act*

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*Regulatory Flexibility Act*

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Small Business Regulatory Enforcement Fairness Act*

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

*Unfunded Mandates*

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector

of \$100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

**List of Subjects in 30 CFR Part 938**

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 8, 2002.

**Vann Weaver,**

*Acting Regional Director, Appalachian Regional Coordinating Center.*

[FR Doc. 02-10516 Filed 4-29-02; 8:45 am]

**BILLING CODE 4310-05-P**

**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 60**

**RIN 2900-AL13**

**Fisher Houses and Other Temporary Lodging**

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

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to establish requirements regarding the use of Fisher Houses and other temporary lodging by veterans receiving VA medical care or Compensation and Pension (C&P) examinations and by family members or other persons accompanying veterans to provide the equivalent of familial support. This is necessary to implement provisions of the Veterans Benefits and Health Care Improvement Act of 2000.

**DATES:** Comments must be received by VA on or before July 1, 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-AL13." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Jill E. Manske, Social Work Services (110B), Veterans Health Administration, 202-273-8549 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** This document proposes to set forth requirements regarding the use of temporary lodging by veterans receiving VA medical care or C&P examinations and by family members or other persons accompanying veterans to provide the equivalent of familial support. VA is mandated to establish a program for providing such temporary lodging under section 221(a) of the Veterans Benefits and Health Care Improvement Act of 2000 (Pub. L. 106-419). These statutory provisions regarding temporary lodging have been codified at 38 U.S.C. 1708 and are administered by the Veterans Health Administration (VHA) of VA.

The proposed rule provides for temporary lodging at Fisher Houses, VA health care facilities (generally referred to as "hoptels"), and at temporary non-VA lodging facilities, such as hotels or motels, provided by a VA health care facility. These are the facilities that may be used for temporary lodging under 38 U.S.C. 1708.

Under 38 U.S.C. 1708(c), a Fisher House is a housing facility that is located at or near a VA health care facility, that is available for residential use on a temporary basis by eligible persons, and that was constructed by and donated to VA by the Zachary and Elizabeth M. Fisher Armed Services Foundation.

Consistent with the limits of statutory authority in 38 U.S.C. 1708(b) and subject to the conditions discussed in this document, the proposed rule provides that the following are eligible to stay in temporary lodging:

(a) A veteran with an appointment at a VA health care facility for the purpose of receiving health care or a C&P examination; and

(b) A member of the family of such veteran or another person who accompanies such veteran to provide the equivalent of familial support.

The proposed rule provides that to obtain temporary lodging, a veteran must make an application to the person responsible for coordinating the temporary lodging program at the VA health care facility of jurisdiction. This may be done by letter, electronic means (including telephone, e-mail, or facsimile), or in person at the VA health care facility of jurisdiction. Under the proposed rule, the veteran must provide the following information:

- (a) Veteran's name;
- (b) Beginning date and time and duration of scheduled care;
- (c) Type of scheduled care;
- (d) Name, gender, and relationship to the veteran of person accompanying veteran;

(e) Requested dates for temporary lodging.

(f) Distance, time, and means of travel from the veteran's home to VA health care facility;

(g) Circumstances that may affect the time of travel from the veteran's home to VA health care facility; and

(h) A statement that the veteran is medically stable and capable of self-care or will be accompanied by a caregiver able to provide the necessary care. This will allow for ease of application and provide VA with information necessary to determine whether the veteran is eligible for temporary lodging.

The proposed rule provides that, as a condition for receiving temporary lodging, a veteran must be required to travel either 50 or more miles or at least two hours from their home to the VA health care facility, except that the facility director at the VA health care facility of jurisdiction may make an exception to distance or time provisions based on exceptional circumstances, such as condition of the veteran, inclement weather, road conditions, or the mode of transportation used by the veteran. We believe this a reasonable interpretation of the requirement at 38 U.S.C. 1708(b)(1) which provides that a veteran must travel a "significant distance" for the veteran and other person to be eligible for temporary housing.

The proposed rule provides that, as a condition for receiving temporary lodging, the veteran must be medically stable and must be capable of self-care or be accompanied by a caregiver able to provide the necessary care. This is necessary because VA does not provide nursing or other medical care for temporary lodging beds.

The proposed rule establishes criteria for determining when temporary lodging will be made available. Consistent with VHA's health care mission, the proposed rule provides that temporary lodging may be furnished in connection with care or C&P examinations provided at a VA health care facility. The proposed rule provides that if the veteran is undergoing extensive treatment or procedures, such as an organ transplant or chemotherapy, eligible persons may be furnished temporary lodging for the duration of the episode of care. The proposed rule also provides that temporary lodging may be available the night before the day of the scheduled care, if the veteran leaving home by 8:00 AM, would be unable to arrive at the health care facility by the time of the scheduled care. Further, the proposed rule provides that temporary lodging may be available the night of the scheduled care

if, after the completion of the care, the veteran would be unable to return home by 7 PM. These provisions are designed to allow temporary lodging during the times it would be reasonably needed.

Fisher Houses are available solely for temporary lodging. The proposed rule provides that non-utilized beds and rooms at a VA health care facility will be made available if not barred by law and if the Director of the VA health care facility determines that such action would not have a negative impact on patient care. The proposed rule also provides that temporary lodging facilities, such as hotels or motels, will be utilized based on availability of local funding as determined by the Director of the health care facility. In addition, we propose that temporary lodging will be provided on a first-come first-serve basis. We believe that these provisions would constitute an appropriate use of VA facilities and establish a reasonable method for determining priority.

Except for certain medically-related decisions that are left to health care personnel, the proposed rule provides that decisions concerning temporary lodging are to be made by the person responsible for coordinating the temporary lodging program at the VA health care facility of jurisdiction. We believe these are appropriate delegations of authority.

VA has authority under 38 U.S.C. 1708 to establish charges for temporary lodging. We believe that if we were to charge, we would need to establish exemptions for those who lack the means to pay for lodging accommodations. Further, based on our experience, we believe that the vast majority of veterans who seek temporary lodging fall into this category. Moreover, we believe that administrative costs for determining need and the additional billing costs would exceed amounts we could reasonably expect to collect based on any reasonable charge amount. Accordingly, the proposed rule provides that costs for temporary lodging shall be borne by VA.

#### Paperwork Reduction Act

The proposed rule at § 60.4 contains collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to OMB for its review of the collections of information.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information

unless it displays a currently valid OMB control number.

Comments on the proposed collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand-delivered to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AL13."

*Title:* Application for temporary lodging.

*Summary of collection of information:* The proposed rule at § 60.4 provides that to obtain temporary lodging, a veteran must make an application to the person responsible for coordinating the temporary lodging program at the VA health care facility of jurisdiction. This may be done by letter, electronic means (including telephone, e-mail, or facsimile), or in person at the VA health care facility of jurisdiction. Under the proposed rule, the veteran must provide the following information:

- (a) Veteran's name;
- (b) Beginning date and time and duration of scheduled care;
- (c) Type of scheduled care;
- (d) Name, gender, and relationship to the veteran of person accompanying veteran;
- (e) Requested dates for temporary lodging;
- (f) Distance, time, and means of travel from the veteran's home to VA health care facility;
- (g) Circumstances that may affect the time of travel from the veteran's home to VA health care facility; and
- (h) A statement that the veteran is medically stable and capable of self-care or will be accompanied by a caregiver able to provide the necessary care.

*Description of the need for information and proposed use of information:* This information is needed to determine eligibility for temporary lodging.

*Description of likely respondents:* Veterans seeking temporary lodging from VA for themselves or others.

*Estimated number of respondents per year:* 250,000.

*Estimated frequency of responses per year:* 2.

*Estimated total annual reporting and recordkeeping burden:* 83,333 hours.

*Estimated annual burden per collection:* 10 minutes.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;

- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;

- Enhancing the quality, usefulness, and clarity of the information to be collected; and

- Minimizing the burden of the collections of information on those who are to respond, including responses through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule.

#### Executive Order 12866

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

#### Unfunded Mandates

The Unfunded Mandates Reform Act requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

#### 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 adoption of the proposed rule would not have an effect on small entities other than possibly the lodging industry. However, any effect would be minuscule. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirement of sections 603 and 604.

#### 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, Government programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: February 21, 2002.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, 38 CFR chapter I is proposed to be amended by adding a new part 60 to read as follows:

#### PART 60—FISHER HOUSES AND OTHER TEMPORARY LODGING

Sec.

- 60.1 Purpose.
- 60.2 Definitions.
- 60.3 Eligible persons.
- 60.4 Application.
- 60.5 Travel.
- 60.6 Condition of veteran.
- 60.7 Duration of temporary lodging.
- 60.8 Lodging availability.
- 60.9 Initial decisionmaker.
- 60.10 Costs.

**Authority:** 38 U.S.C. 501, 1708.

##### § 60.1 Purpose.

This part sets forth requirements regarding the use of Fisher Houses and other temporary lodging by veterans receiving VA medical care or C&P examinations and a family member or other person accompanying the veteran to provide the equivalent of familial support.

(Authority: 38 U.S.C. 501, 1708)

##### § 60.2 Definitions.

For the purposes of this part: *C&P examination* means an examination requested by VA's Compensation and Pension Service to be conducted at a VA health care facility for the purpose of evaluating claims by veterans.

##### Temporary lodging means:

(1) Lodging at a Fisher House which is a housing facility that is located at or near a VA health care facility, that is available for residential use on a temporary basis by eligible persons, and that was constructed by and donated to VA by the Zachary and Elizabeth M. Fisher Armed Services Foundation, or

(2) Lodging at a temporary lodging facility located at a VA health care facility (generally referred to as a "hoptel"), or a temporary non-VA lodging facility, such as a hotel or motel, provided by a VA health care facility.

VA means the Department of Veterans Affairs.

(Authority: 38 U.S.C. 501, 1708)

##### § 60.3 Eligible persons.

The following are eligible to stay in temporary lodging subject to the conditions of this part:

(a) A veteran with an appointment at a VA health care facility for the purpose of receiving health care or a C&P examination, and

(b) A member of the family of such veteran or another person who accompanies such veteran to provide the equivalent of familial support.

(Authority: 38 U.S.C. 501, 1708)

##### § 60.4 Application.

To obtain temporary lodging under this part, a veteran must make an application to the person responsible for coordinating the temporary lodging program at the VA health care facility of jurisdiction. This may be done by letter, electronic means (including telephone, e-mail, or facsimile), or in person at the VA health care facility of jurisdiction. The veteran shall provide the following information:

- (a) Veteran's name;
- (b) Beginning date and time and duration of scheduled care;
- (c) Type of scheduled care;
- (d) Name, gender, and relationship to the veteran of person accompanying veteran;
- (e) Requested dates for temporary lodging;
- (f) Distance, time, and means of travel from the veteran's home to VA health care facility;
- (g) Circumstances that may affect the time of travel from the veteran's home to VA health care facility; and
- (h) A statement that the veteran is medically stable and capable of self-care or will be accompanied by a caregiver able to provide the necessary care.

(Authority: 38 U.S.C. 501, 1708)

##### § 60.5 Travel.

As a condition for receiving temporary lodging under this part, a veteran must be required to travel either 50 or more miles or at least two hours from his or her home to the VA health care facility, except that the facility director at the VA health care facility of jurisdiction may make an exception to distance or time provisions based on exceptional circumstances, such as

condition of the veteran, inclement weather, road conditions, or the mode of transportation used by the veteran.

(Authority: 38 U.S.C. 501, 1708)

#### **§ 60.6 Condition of veteran.**

As a condition for receiving temporary lodging under this part, the veteran must be medically stable and must be capable of self-care or be accompanied by a caregiver able to provide the necessary care. Questions regarding these issues will be resolved by an appropriate health care provider at the VA health care facility of jurisdiction.

(Authority: 38 U.S.C. 501, 1708)

#### **§ 60.7 Duration of temporary lodging.**

Temporary lodging may be furnished to eligible persons in connection with care or C&P examinations provided at a VA health care facility. When a veteran is undergoing extensive treatment or procedures, such as an organ transplant or chemotherapy, eligible persons may be furnished temporary lodging for the duration of the episode of care subject to limitations described in this section. Temporary lodging may be available the night before the day of the scheduled care, if the veteran leaving home by 8:00 AM, would be unable to arrive at the health care facility by the time of the scheduled care. Temporary lodging may be available the night of the scheduled care if, after the completion of the care, the veteran would be unable to return home by 7:00 PM.

(Authority: 38 U.S.C. 501, 1708)

#### **§ 60.8 Lodging availability.**

Fisher Houses are available solely for temporary lodging under this part. Non-utilized beds and rooms at a VA health care facility will be made available if not barred by law and if the Director of the VA health care facility determines that such action would not have a negative impact on patient care. Temporary lodging facilities, such as hotels or motels, will be utilized based on availability of local funding as determined by the Director of the health care facility of jurisdiction. Temporary lodging will be provided on a first-come first-serve basis.

(Authority: 38 U.S.C. 501, 1708)

#### **§ 60.9 Decisionmaker.**

Except as otherwise provided in this part, the person responsible for coordinating the temporary lodging program at the VA health care facility of jurisdiction is responsible for making decisions under this part.

(Authority: 38 U.S.C. 501, 1708)

#### **§ 60.10 Costs.**

Costs for temporary lodging under this part shall be borne by VA.

(Authority: 38 U.S.C. 501, 1708)

[FR Doc. 02-10597 Filed 4-29-02; 8:45 am]

BILLING CODE 8320-01-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 81**

[FRL-7203-6]

#### **Designation of Areas for Air Quality Planning Purposes; Redesignation of Particulate Matter Unclassifiable Areas; Redesignation of Hydrographic Area 61 for Particulate Matter, Sulfur Dioxide, and Nitrogen Dioxide; State of Nevada**

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

**ACTION:** Proposed rule.

**SUMMARY:** In this document, EPA is proposing to approve requests from the State of Nevada, pursuant to section 107(d) of the Clean Air Act (Act), to redesignate the current single unclassifiable area for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>) into numerous individual areas to be consistent with the area definitions for other pollutants. EPA is also proposing to approve a state-requested subdivision of one of those individual areas, referred to as hydrographic area 61 (Boulder Flat), into two areas. EPA's approval of these requests would establish hydrographic areas as the section 107(d) unclassifiable areas for PM<sub>10</sub> and would replace hydrographic area 61 with two new section 107(d) areas for PM<sub>10</sub>, sulfur dioxide (SO<sub>2</sub>), and nitrogen dioxide (NO<sub>2</sub>): Upper area 61 and lower area 61. In this action, EPA is also proposing to delete certain total suspended particulate (TSP) area designations that are no longer necessary. EPA believes that the State's requests comply with the federal standards for approval of section 107(d) redesignations and that approving the State's request is appropriate.

**DATES:** Comments on this proposed rule must be received in writing by May 30, 2002.

**ADDRESSES:** Written comments on this action should be addressed to Gerardo Rios, Chief, Permits Office, Air Division (AIR-3), EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105.

You can inspect copies of the State's submittal, and other supporting

documentation relevant to this action, during normal business hours at Air Division, EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105.

You may also see copies of the State's submittal at the Nevada Division of Environmental Protection, 333 W. Nye Lane, Room 138, Carson City, Nevada 89706.

#### **FOR FURTHER INFORMATION CONTACT:**

David Albright, EPA Region 9, Air Division, Permits Office (AIR-3), at (415) 972-3971 or albright.david@epa.gov.

#### **SUPPLEMENTARY INFORMATION:**

Throughout this document, "we," "us" and "our" refer to EPA.

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- IV. Proposed Action
- V. Request for Public Comment
- VI. Administrative Requirements

#### **I. Evaluation of State's Request To Redesignate PM<sub>10</sub> Unclassifiable Area**

Section 107(d)(1) of the 1977 Amendments to the Act required each State to submit to the Administrator a list identifying those areas which (1) do not meet a national ambient air quality standard (NAAQS) (nonattainment areas), (2) cannot be classified on the basis of available ambient data (unclassifiable areas), and (3) have ambient air quality levels better than the NAAQS (attainment areas). In 1978, we published the original list of all area designations pursuant to section 107(d)(2) (commonly referred to as "section 107 areas"), including those designations for TSP. See 43 FR 8962 (March 3, 1978). EPA's designations of nonattainment, attainment, and unclassifiable areas in the State of Nevada are codified at 40 CFR 81.329. The designations for Nevada have been the subject of a recent technical correction by EPA. See 67 FR 12474 (March 19, 2002). This recent EPA action clarified that the TSP (as well as the NO<sub>2</sub> and SO<sub>2</sub>) designations in the State of Nevada are based on hydrographic areas<sup>1</sup> as delineated by

<sup>1</sup> The State of Nevada is divided into 14 distinct hydrologic units called hydrographic regions. The hydrographic regions (or waterbasins or watersheds) have been further disaggregated into 256 hydrographic areas and sub-areas. The hydrographic areas and sub-areas, which Nevada also uses to define their air quality management areas, typically comprise a valley, a portion of a valley, or a terminal basin. For simplicity, in this notice we use the term "hydrographic areas" to refer to both the hydrographic areas and the sub-areas.