

dependent was eligible as of that date. If retroactive coverage is elected, retroactive premiums must be paid for the time period between January 1, 2011, and the date of the election. If no retroactive coverage is elected or the retroactive premiums are not paid within the time prescribed, coverage will not be retroactive and coverage will apply only prospectively under the procedures set forth for open enrollment. No purchase of retroactive coverage may take place after September 30, 2011. Coverage under TRICARE Prime may not be made retroactively.

(2) *Suspension and termination.* Procedures may be established for TYA coverage to be suspended and/or terminated as follows.

(i) Loss of eligibility or entitlement for coverage by the sponsor will result in termination of the dependent's TYA coverage unless otherwise specified. The effective date of the sponsor's loss of eligibility for care will also be the effective date of termination of benefits under the TYA program unless specified otherwise.

(A) *Active duty military sponsor.* TYA coverage ends effective the date of military sponsor's separation from military service, unless the dependent would be eligible under section 199.3(e) of this Part but for the dependent's age, for the duration of the Transitional Assistance Management Program (TAMP) eligibility or until reaching age 26, whichever comes first. Upon the death of an active duty sponsor, dependents eligible for Transitional Survivor coverage may purchase TYA coverage if otherwise qualified.

(B) *Selected Reserve (Sel Res) Sponsor.* Sel Res sponsors must be currently enrolled in TRICARE Reserve Select (TRS) before a young adult dependent is eligible to purchase TYA. If TRS coverage is terminated by the sponsor, TYA coverage ends effective the same termination date as the sponsor. If the Sel Res sponsor dies while enrolled in TRS, the young adult dependent is eligible to purchase TYA coverage for six months after the date of death of the Sel Res sponsor, if otherwise qualified.

(C) *Retired Reserve Sponsor.* Retired Reserve members not yet eligible for retired or retainer pay must be enrolled in TRICARE Retired Reserve (TRR) to establish TYA eligibility for their young adult dependents. If TRR coverage is terminated by the sponsor, the TYA coverage for the young adult dependent ends effective the same date as the sponsor's termination of coverage under TRR. If the retired reserve sponsor dies while enrolled in TRR, the young adult dependent may continue to purchase

TYA coverage until the date on which the deceased member would have attained age 60, if otherwise qualified. If the Retired Reserve member dies and is not enrolled in TRR, there is no eligibility for TYA coverage until the sponsor would have reached age 60. On the date the Retired Reserve member would have reached 60, a young adult dependent who otherwise qualifies for TYA qualifies as a dependent of a deceased retired sponsor and can purchase TYA coverage.

(ii) Failure of a young adult dependent to maintain the eligibility qualifications in paragraph (b) of this section shall result in the termination of coverage under the TYA program. The effective date of termination shall be the date upon which the adult young dependent failed to meet any of the prerequisite qualifications. If a subsequent change in circumstances re-establishes eligibility (such as losing eligibility for an eligible employer-sponsored plan), the young adult dependent may re-enroll for coverage under the TYA program.

(iii) Coverage may also be terminated due to a change in the sponsor's status, and the young adult dependent must re-qualify and reapply for TYA coverage within 30 days of termination to preclude a gap in coverage.

(iv) Termination of coverage results in denial of claims for services with a date of service after the effective date of termination.

(v) Coverage may be suspended and finally terminated for young adult dependents upon request at any time by submitting a completed request in the appropriate format in accordance with established procedures.

(vi) Coverage may be suspended and finally terminated for young adult dependents who fail to make premium payments within established procedures.

(vii) Under paragraph (d)(2)(v) or (d)(2)(vi) of this section, TYA coverage may be first suspended for a period up to one year followed by final termination. Procedures may be established for the suspension to be lifted upon request before final termination is applied. Procedures may also be established for the suspension to be lifted before final termination is applied upon request for undue hardship as defined by § 199.26(g).

(3) *Eligibility for the Continued Health Care Benefit Program.* Upon termination of eligibility to purchase TYA coverage, dependents may purchase coverage for up to 36 months through the Continued Health Care Benefit Program under § 199.20 unless locked out of TYA.

(4) *Changing coverage.* Upon application and payment of appropriate premiums, qualified dependents already enrolled in and who are current in their premium payments may elect to change to another TRICARE program for which the qualified dependent is eligible based on the sponsor's eligibility and the geographic location of the qualified young adult dependent. Upon change in sponsor status (for example, active duty to retired status), TYA coverage may be automatically transferred to the appropriate TRICARE option consistent with the sponsor's new status. Recurring TYA premiums may be adjusted accordingly. Administrative processes may be established for changes in program enrollment; however, no change shall be effective until the applicable premium has been paid.

(e) *Preemption of State laws.*—The preemption provisions of § 199.17(a)(7) are applicable to the TYA program.

(f) *Administration.* The Director, TRICARE Management Activity may establish other processes, policies and procedures for the effective administration of the TYA Program and may authorize exceptions to requirements of this section, if permitted by law.

(g) *Terminology.* The following term applies to the TYA program:

*Undue hardship.* This term involves a situation that the TYA dependent could neither have prevented nor avoided by taking reasonable and timely action. The ASD(HA) may provide further guidelines regarding use of this term.

Dated: May 10, 2013.

**Patricia L. Toppings,**  
OSD Federal Register Liaison Officer,  
Department of Defense.

[FR Doc. 2013-12412 Filed 5-28-13; 8:45 am]

**BILLING CODE 5001-06-P**

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket Number USCG-2013-0276]

RIN 1625-AA00

#### When Pigs Fly Fireworks Display; San Diego, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a safety zone on the navigable waters of the San Diego Bay in support of the When Pigs Fly Fireworks Display on June 11, 2013

from 8:30 p.m. to 9:30 p.m. The safety zone will include all navigable waters within 600 feet of the nearest point of the fireworks barge located in the vicinity of the USS MIDWAY. The zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels are prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port or his designated representative.

**DATES:** This rule is effective from 8:30 p.m. to 9:30 p.m. on June 11, 2013.

**ADDRESSES:** Documents mentioned in this preamble are part of docket [USCG–2013–0276]. To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email Petty Officer Bryan Gollogly, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7656, email [d11marineeventssandiego@uscg.mil](mailto:d11marineeventssandiego@uscg.mil) If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

**Table of Acronyms**

DHS Department of Homeland Security  
FR Federal Register  
NPRM Notice of Proposed Rulemaking

**A. Regulatory History and Information**

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM)

with respect to this rule because publishing an NPRM would be impracticable. The Coast Guard did not receive necessary information from the event sponsor in time to publish a notice of proposed rulemaking. The event is scheduled to take place, and as such, immediate action is necessary to ensure the safety of vessels, spectators, participants, and others in the vicinity of the marine event on the dates and times this rule will be in effect.

Under 5 U.S.C. 553(d)(3), for the same reasons mentioned above, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be impracticable for the reasons cited above.

**B. Basis and Purpose**

The legal basis for this temporary rule is the Ports and Waterways Safety Act which authorizes the Coast Guard to establish safety zones (33 U.S.C sections 1221 et seq.).

Pyro Spectaculars is sponsoring the When Pigs Fly Fireworks Display, which will be conducted from a barge located in the vicinity of the USS MIDWAY in San Diego Bay. A safety zone is needed for the navigable waters around the barge, which will be located in the following approximate position: 32 42’46.71” N 117 10’39.44” W. A safety zone is necessary to provide for the safety of the crew, spectators, and other vessels and users of the waterway. The sponsor will provide a chase boat to patrol the safety zone and inform vessels of the safety zone.

**C. Discussion of the Final Rule**

The Coast Guard is establishing a safety zone that will be enforced from 8:30 p.m. to 9:30 p.m. on June 11, 2013. The limits of the safety zone will include all the navigable waters within 600 feet of the nearest point of the fireworks barge in approximate position 32 42’46.71” N 117 10’39.44” W.

The safety zone is necessary to provide for the safety of the crews, spectators, and other vessels and users of the waterway. Persons and vessels will be prohibited from entering into, transiting through, or anchoring within the safety zone unless authorized by the Captain of the Port, or his designated representative.

**D. Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

*1. Regulatory Planning and Review*

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation is unnecessary. The safety zone is of a limited duration, one hour, and is limited to a relatively small geographic area.

*2. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the impacted portion of the San Diego Bay on June 11, 2013 between 8:30 p.m. and 9:30 p.m.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone will be in effect for a short duration, one hour, late at night when vessel traffic is low. Additionally, vessel traffic can pass around the safety zone.

*3. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine

compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. 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.

#### 7. 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 expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

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

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (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 involves establishment of a safety zone. 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.

#### 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, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 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. Add § 165.T11-561 to read as follows:

#### § 165.T11-561 Safety zone; When Pigs Fly Fireworks Display; San Diego, CA.

(a) *Location.* The limits of the safety zone will include all the navigable waters within 600 feet of the nearest point of the fireworks barge in approximate position 32 42'46.71" N 117 10'39.44" W.

(b) *Enforcement Period.* This section will be enforced from 8:30 p.m. to 9:30 p.m. on June 11, 2013.

(c) *Definitions.* The following definition applies to this section: *designated representative* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) Mariners requesting permission to transit through the safety zone may request authorization to do so from the Sector San Diego Command Center. The Command Center may be contacted on VHF-FM Channel 16.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, a flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other federal, state, or local agencies.

Dated: May 1, 2013.

**S.M. Mahoney,**

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

[FR Doc. 2013-12652 Filed 5-28-13; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

RIN 2900-AO62

#### Community Residential Care

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Interim final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) amends its regulations concerning approval of non-VA community residential care facilities to allow VA to waive such facilities' compliance with standards that do not jeopardize the health or safety of residents. Waiver would be authorized in those limited circumstances where the deficiency cannot be corrected to meet a standard provided for in VA regulation. Authorizing this waiver will prevent veterans from needlessly choosing to move out of established and appropriate living situations due to minor deficiencies in standards that cannot be corrected, and into more restrictive and/or costly care. In addition, we make a technical edit to correct a reference to the section addressing requests for a hearing.

**DATES:** *Effective Date:* This interim final rule is effective on May 29, 2013.

*Comment Date:* Comments must be received on or before July 29, 2013.

**ADDRESSES:** Written comments may be submitted through [www.Regulations.gov](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. Comments should indicate that they are submitted in response to "RIN 2900-AO62, Community Residential Care." 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 [www.Regulations.gov](http://www.Regulations.gov).

#### FOR FURTHER INFORMATION CONTACT:

Nancy Quest, Director, Home and Community Based Services (10P4G), Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461-6064. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** The Community Residential Care (CRC) program is an important component in VA's continuum of care. It operates under the authority of 38 U.S.C. 1730, which, at subsection (a), provides that VA may refer a veteran for placement in a CRC facility if VA is furnishing outpatient medical services or hospital, domiciliary, or nursing home care to the veteran or has furnished the veteran with such care in the preceding 12 months, and placement in a CRC facility is appropriate. Under 38 U.S.C. 1730(b), VA cannot refer a veteran to a CRC facility unless VA approves the facility.

CRC facilities provide room, board, limited personal care, and supervision to veterans who do not require hospital or nursing home care but are unable to live independently because of medical or mental health conditions, and who have insufficient family resources to provide care. The veteran pays for the cost of this living arrangement. VA's contribution is limited to approving CRCs for inclusion on VA's list of approved CRC facilities. As part of the approval process, VA inspects the facility utilizing the criteria listed in 38 CFR 17.63 and conducts post-inspection monitoring. VA provides clinical services, including medical care provided by VA health care professionals, to veterans residing in CRC facilities. A CRC facility may be referred to by different names in various states and settings, such as: Medical Foster Homes, Assisted Living, Personal Care Homes, Family Care Homes, and psychiatric CRC Homes. The CRC program currently approves 826 CRC facilities serving more than 6,100 veterans, accounting for more than 398,000 bed days of care per calendar quarter.

VA's regulations governing the CRC program appear at 38 CFR 17.61 through 17.72. Decisions regarding approval of CRC facilities are made by an approving official at a local VA medical center level. The term "approving official" is defined at § 17.62(e) as a Director of a VA Medical Center or Outpatient Clinic which has jurisdiction to approve the CRC facility, or other medical center officials listed in that section who may be designated by the Director. As provided in § 17.65(a), the approving official may approve a CRC facility, based on the report of a VA inspection

and any findings of necessary interim monitoring of the facility, if the facility meets the standards listed in § 17.63. The standards found in § 17.63 cover a wide variety of issues related to health and safety as well as quality of life, environment, and administrative requirements. For example, § 17.63 provides standards for fire safety, heating and air conditioning, interior building plans, laundry service, size and furnishing requirements for the residents' bedrooms, nutrition, activities, residents' rights, and staffing and administrative requirements. The current regulation requires CRCs to meet all of these standards before an approving official may grant approval of a CRC facility.

Under § 17.65(b), if there is an identified deficiency that does not jeopardize the health or safety of the residents, the CRC facility may obtain provisional approval if the deficiency can be corrected and VA and the facility agree on a plan to correct the deficiency. If the deficiency is not corrected per the agreement, the provisional approval is terminated, as provided in §§ 17.66 through 17.71. Upon revocation of VA approval for a CRC facility, VA is required to cease referring veterans to the CRC facility, notify any veteran residing in the facility that VA has disapproved the facility, and request permission to assist in the veteran's removal if the veteran chooses to leave.

There currently is no provision whereby VA may waive a standard delineated in § 17.63. However, VA has determined that there may be instances in which a CRC facility may have a minor deficiency that cannot be corrected but which does not jeopardize the health or safety of resident veterans. We find that it is appropriate to provide a mechanism to waive the standard applicable to that minor deficiency and authorize approval of the CRC facility under § 17.65(a) or (b). An example of an instance in which a waiver would be appropriate would involve a CRC facility that would qualify for full approval but for the fact that a single-resident room measures slightly less than 100 square feet (as required under § 17.63(e)(2)), and the deficiency cannot be corrected without compromising the structural integrity of the facility. Waiver would be appropriate in this instance in order to ensure that a veteran is not discouraged from using an appropriate CRC facility located near his or her home, or to otherwise avoid more restrictive and/or costly care.

This interim final rule amends § 17.65 by adding a new paragraph (d) providing that VA may waive a standard found in § 17.63 for the approval of a