

All waters in the vicinity of Manchester Bay and Manchester Harbor, from surface to bottom, within a four hundred (400) yard radius of the fireworks barge located at approximate position 42°50.00' N, 070°47.00' W.

(b) *Effective Date.* This rule is effective from 9 p.m. EDT on August 12, 2006 until 10:15 p.m. EDT on August 12, 2006.

(c) *Definitions.* (1) *Designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port (COTP).

(2) *[Reserved]*

(d) *Regulations.* (1) In accordance with the general regulations in 165.23 of this part, entry into or movement within this zone by any person or vessel is prohibited unless authorized by the Captain of the Port (COTP), Boston or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or the COTP's designated representative.

Dated: August 1, 2006.

**James L. McDonald,**

*Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.*

[FR Doc. E6-13200 Filed 8-10-06; 8:45 am]

BILLING CODE 4910-15-P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 59

#### RIN 2900-AM42

### Priority for Partial Grants to States for Construction or Acquisition of State Home Facilities

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Interim final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) regulations regarding grants to States for construction or acquisition of State homes. This amendment is necessary to ensure that projects designed to remedy conditions at an existing State home that have been cited as threatening to

the lives or safety of the residents receive priority for receiving VA grants in the future (including in fiscal year 2007).

**DATES:** *Effective Date:* This interim final rule is effective August 11, 2006.

Comments must be received on or before October 10, 2006.

**ADDRESSES:** Written comments may be submitted by: mail or hand-delivery to Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20042; fax to (202) 273-9026; or e-mail through <http://www.Regulations.gov>. Comments should indicate that they are submitted in response to "RIN 2900-AM42." All comments received will be available for public inspection in the Office of Regulations Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273-9515 for an appointment.

**FOR FURTHER INFORMATION CONTACT:**

Frank Salvat, Chief, State Home Construction Grant Program (114), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, 202-273-8534.

**SUPPLEMENTARY INFORMATION:** Congress has authorized VA to provide grants to States for the construction and acquisition of State homes for the care of veterans. See 38 U.S.C. 8131-8137. The law mandates that VA use certain priorities in establishing a list of approved projects to receive funding. VA has used these priorities to establish the priority and subpriority groups that are set forth in 38 CFR 59.50. For instance, the top priority group is for projects from States that have made sufficient funds available for their projects. That group is divided into six sub-groups, which are (in order of priority): (1) Projects to remedy conditions found to threaten the lives or safety of patients (i.e., life safety projects that may include, for example, seismic concerns, egress, smoke barriers and fire walls, fire alarm and detection, or asbestos and other hazardous materials), (2) projects from States that have not previously applied for the construction or acquisition of a State nursing home, (3) projects from States that have a great need for new State home beds, (4) other projects for the renovation of a State home, (5) projects from States that have a significant need for new State home beds, and (6) projects from States that have a limited need for new State home beds.

Sometimes, States with higher-ranking applications within the top

priority group deplete the available funding to the extent that VA is able to offer the State with the lowest-ranking application (for which grant funds are available) only a partial grant. Currently, 38 CFR 59.50(b) provides that if a State accepts a partial grant in a given fiscal year, that State's project will have the highest priority for funding in the next fiscal year. This provision was promulgated originally because States were hesitant to accept a partial grant if there was uncertainty of receiving sufficient grant funding in the next fiscal year. The existing regulation encourages States to accept a partial grant by giving them the highest priority for appropriated grant funds in the subsequent fiscal year. Without receiving the highest priority for appropriated grant funds, States offered a partial grant would likely turn it down, and the money would go to lower-priority projects.

VA foresees that the regulatory provision granting the highest priority for appropriated funds in the subsequent fiscal year to States accepting partial grants may render VA unable to meet its statutory obligations for prioritizing grant applications, especially for giving top priority to life safety projects. A revision is needed immediately due to the pendency of one large construction project from a State with "great" need which is in line to receive a partial grant this year and which would otherwise then consume all the funding expected for grants during fiscal year (FY) 2007. This would result in no available funds for grants for life safety projects during FY 2007, contrary to the statutory priority that is to be given those projects.

This rule changes the priority that a project receiving a partial grant may receive during the next fiscal year. Rather than receiving highest priority in the next fiscal year, a project receiving a partial grant would receive highest priority only with respect to 30 percent of the funds actually appropriated for grants. In other words, such a project would qualify to receive no more than 30 percent of the funds appropriated for this purpose. The partial-grant project could receive more funding but would have to compete for it without the advantage of any special priority. For example, a State seeking a grant for \$160 million that has received a partial grant of \$70 million in the 2006 fiscal year would qualify to receive up to 30 percent of the funds available to VA for the award of State home grants during FY 2007. If VA has \$85 million available for State home grants for FY 2007, the partial-grant State would receive 30 percent of that amount (\$25.5 million)

because of its highest priority as a partial-grant recipient. If the partial-grant recipient also ranks number 15 on the priority list with respect to the rest of the 70 percent of available funds, and the higher-ranked applicants seek only \$45.5 million, the partial-grant recipient would be awarded an additional \$14 million for a total of \$39.5 million. This rule provides VA with the flexibility to set aside at least 70 percent of the grant funds for life safety projects consistent with the priority for such projects mandated by Congress. Based on past experience and our best estimates, we anticipate a 70-percent allocation would provide sufficient funds to cover anticipated life safety projects in FY 2007 and subsequent years. Life safety projects used 10 percent of available funds in FY 2004 and 5 percent of available funds in FY 2005, and will use about 34 percent of available funds in FY 2006. However, based on existing and recent life safety applications, and indications from States that more such applications will be submitted, we estimate that the demand for life safety projects in FY 2007 may require up to 70 percent of the available funds. At the same time, we believe a 30-percent allocation to partial-grant recipients in the following year will provide some incentive for States to accept a partial grant.

It is possible that there may be more than one partial-grant recipient in a given fiscal year. In the above example, another higher-priority applicant seeking a \$25 million grant could receive the remaining \$14 million from the 70 percent of the funds as a partial grant. Under this regulation, this partial-grant recipient would also receive priority over all other applicants for up to 30 percent of the funding that would be set aside for partial-grant recipients during the next fiscal year. To address this possibility, this regulation further prioritizes the partial-grant recipients on the priority list for the next fiscal year based on the date that VA first awarded a partial grant for the projects (the earlier the grant was awarded, the higher the priority given).

#### **Administrative Procedure Act**

In accordance with 5 U.S.C. 553(b)(3)(B), the Secretary of Veterans Affairs finds that there is good cause to dispense with the opportunity for prior comment with respect to this rule. The Secretary finds that it is impracticable, unnecessary, and contrary to the public interest to delay this regulation for the purpose of soliciting prior public comment. This action is consistent with the priorities established by Congress and is needed on an expedited basis

because the current regulation may preclude VA from funding life safety projects during FY 2007. While it is important to give States receiving partial grants priority for continued funding, these regulations need to recognize the other priorities for awarding State home grants including the top priority for projects that protect the lives and safety of veterans residing in existing State homes. For the foregoing reasons, the Secretary of Veterans Affairs is issuing this rule as an interim final rule.

#### **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 an expenditure by the State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This amendment would have no such effect on State, local, and tribal governments, or on the private sector.

#### **Executive Order 12866**

Executive Order 12866 directs agencies to assess all 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, and other advantages; distributive impacts; and equity). The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of specified conditions, including having an annual effect on the economy of \$100 million or more; creating a serious inconsistency or interfering with an action of another agency; materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. VA has examined the economic, legal, and policy implications of this interim final rule and has concluded that it is a significant regulatory action because it raises novel policy issues.

#### **Paperwork Reduction Act**

This document 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 regulatory amendment will 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 rule will affect grants to States and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

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

The Catalog of Federal Domestic Assistance program number and title for this rule are as follows: 64.005, Grants to States for Construction of State Home Facilities.

#### **List of Subjects in 38 CFR Part 59**

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; Reporting and Recordkeeping requirements; Travel and transportation expenses, Veterans.

Approved: June 23, 2006

**R. James Nicholson,**

*Secretary of Veterans Affairs.*

■ For the reasons stated above, the Department of Veterans Affairs amends 38 CFR part 59 as follows:

#### **PART 59—GRANTS TO STATES FOR CONSTRUCTION OR ACQUISITION OF STATE HOMES**

■ 1. The authority citation for part 59 continues to read as follows:

**Authority:** 38 U.S.C. 101, 501, 1710, 1742, 8105, 8131–8137.

■ 2. Amend § 59.50 by revising paragraph (b) to read as follows:

#### **§ 59.50 Priority List.**

\* \* \* \* \*

(b)(1) If a State accepts a partial grant for a project under § 59.80(a)(2), VA will give that project the highest priority for the next fiscal year within the priority group to which it is assigned (without further prioritization of that priority group) to receive up to 30 percent of the funds available for that year. Funds available do not include funds conditionally obligated in the previous fiscal year under § 59.70(a)(2).

(2) If, in a given fiscal year, more than one State previously accepted a partial grant under § 59.80(a)(2), these partial-grant recipients will be further prioritized on the priority list for that fiscal year based on the date that VA

first awarded a partial grant for the project (the earlier the grant was awarded, the higher the priority given). The partial-grant recipients, in aggregate, may receive up to 30 percent of the funds available for that year that would be set aside for partial-grant recipients.

\* \* \* \* \*

[FR Doc. E6-13153 Filed 8-10-06; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[EPA-R04-OAR-2005-TN-0007-200527(c)  
FRL-8208-9]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of the Montgomery County, Tennessee Portion of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainment Area to Attainment; Correcting Amendment

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

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This action corrects the effective date for the 8-hour ozone attainment designation for the Montgomery County, Tennessee portion of the Clarksville-Hopkinsville 8-hour ozone nonattainment area. The effective date for this attainment designation, which appears in title 40 Code of Federal Regulation (CFR) 81.343, was erroneously identified as October 24, 2005, in the Part 81 chart at the end of EPA's September 22, 2005, direct final redesignation rulemaking (70 FR 55559). This error is being corrected to reflect an effective date of November 21, 2005, for Montgomery County, Tennessee's 8-hour ozone attainment designation.

**DATES:** *Effective Date:* This correcting amendment is effective on August 11, 2006.

**ADDRESSES:** Copies of the documentation used in the action being corrected are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Dr. Egide Louis, Regulatory Development

Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9240. Dr. Louis can also be reached via electronic mail at [louis.egide@epa.gov](mailto:louis.egide@epa.gov).

**SUPPLEMENTARY INFORMATION:** On September 22, 2005 (70 FR 55559), EPA published a direct final rulemaking action approving the redesignation of the Montgomery County, Tennessee portion of the Clarksville-Hopkinsville 8-hour ozone nonattainment area to attainment status. In the "Dates" section and in section VIII of the September 22, 2005, action, EPA stated that the rule would be effective on November 21, 2005, unless EPA received adverse written comments by October 24, 2005. 70 FR 55559, 55566. However, in the part 81 chart at the end of the rulemaking action, EPA erroneously identified the effective date for the attainment designation as October 24, 2005, instead of November 21, 2005. (70 FR 55568). Today, we are correcting the effective date of the Montgomery County, Tennessee 8-hour ozone attainment redesignation that appears in 40 CFR 81.343, so that it correctly reflects the effective date of the redesignation rulemaking, which is November 21, 2005.

EPA has determined that today's action falls under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedure Act (APA) which, upon finding "good cause," authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary or contrary to the public interest. Public notice and comment for this action are unnecessary because today's action to correct the effective date of the 8-hour ozone attainment redesignation for Montgomery County, Tennessee has no substantive impact on EPA's September 22, 2005, redesignation approval. That is, the correction of the 8-hour ozone attainment redesignation effective date makes no substantive difference to EPA's redesignation analysis as set out in our September 22, 2005, rule, and merely corrects an error made in that prior rulemaking. In addition, EPA can identify no particular reason why the public would be interested in being notified of the correction of this error or in having the opportunity to comment on the correction prior to this action being finalized, since this correction action does not change the redesignation approval and merely conforms the effective date of the

attainment redesignation to coincide with the effective date of the redesignation rulemaking. See, 70 FR 55559, 55568.

EPA also finds that there is good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule merely corrects an inadvertent error by conforming the effective date of the 8-hour ozone attainment redesignation for Montgomery County, Tennessee to the effective date of EPA's rulemaking approving the redesignation. For these reasons, EPA finds good cause under APA section 553(d)(3) for this correction to become effective on the date of publication of this action.

#### Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely corrects an inadvertent error by conforming the effective date of the 8-hour ozone attainment redesignation for Montgomery County, Tennessee to the effective date of EPA's rulemaking approving the redesignation, and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator 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.*). Because this rule merely corrects an inadvertent error by conforming the effective date of the 8-hour ozone attainment redesignation for Montgomery County, Tennessee to the effective date of EPA's rulemaking approving the redesignation, and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded