

determine if it includes evidence (including, but not limited to, any facts or arguments as to why relief should be granted) that was not in the record at the time of the ABCMR's prior consideration. If new evidence has been submitted, the request will be submitted to the ABCMR for its determination of whether new evidence exists sufficient to show probable material error or injustice. If no new evidence is found, the ABCMR staff will return the application to the applicant without action.

(ii) If the ABCMR receives the request more than 1 year after the ABCMR's action, or after the ABCMR has already considered one request for reconsideration, the ABCMR staff will review the request to determine if substantial relevant evidence is submitted showing fraud, mistake of law, mathematical miscalculation, manifest error, or the existence of substantial, relevant new evidence discovered contemporaneously or within a short time after the ABCMR's original consideration. If the ABCMR staff finds such evidence, it will be submitted to the ABCMR for its determination of whether a material error or injustice exists, and if so, the proper remedy. If the ABCMR staff does not find such evidence, the application will be returned to the applicant without action.

(h) *Claims/Expenses.*—(1) *Authority.* (i) The Army, by law, may pay claims for amounts due to applicants as a result of correction of military records.

(ii) The Army may not pay any claim previously compensated by Congress through enactment of a private law.

(iii) The Army may not pay for any benefit to which the applicant might later become entitled under the laws and regulations managed by the VA.

(2) *Settlement of claims.* (i) The ABCMR will furnish DFAS copies of decisions potentially affecting monetary entitlement or benefits. DFAS will treat such decisions as claims for payment by or on behalf of the applicant.

(ii) DFAS will settle claims on the basis of the corrected military record. DFAS will compute the amount due, if any. DFAS may require applicants to furnish additional information to establish their status as proper parties to the claim and/or to aid in deciding amounts due. Earnings received from civilian employment during any period for which active duty pay and allowances are payable will be deducted. The applicant's acceptance of a settlement fully satisfies the claim concerned.

(3) *Payment of expenses.* The Army may not pay attorney's fees or other

expenses incurred by or on behalf of an applicant in connection with an application for correction of military records under 10 U.S.C. 1034 or 1552.

(i) *Miscellaneous provisions.*—(1) *Special standards.* (i) Pursuant to the November 27, 1979 order of the United States District Court for the District of Columbia in *Giles v. Secretary of the Army* (Civil Action No. 77-0904), a former Army service member is entitled to an honorable discharge if a less than honorable discharge was issued to the service member, on or before November 27, 1979, in an administrative proceeding in which the Army introduced evidence developed by or as a direct or indirect result of compelled urinalysis testing administered for the purpose of identifying drug abusers (either for the purposes of entry into a treatment program or to monitor progress through rehabilitation or follow-up).

(ii) Applicants who believe that they fall within the scope of paragraph (i) (1)(i) of this section should place the word CATEGORY "G" in block 11, (DD Form 149) Application for Correction of Military or Naval Record. Such applications should be viewed expeditiously by a designated official who will either send the individual an honorable discharge certificate if the individual falls within the scope of paragraph (i) (1)(i) of this section, or forward the application to the Discharge Review Board if the individual does not fall within the scope of paragraph (i) (1)(i) of this section. The action of the designated official shall not constitute an action or decision by the Board for Correction of Military Records.

(2) *Public access to decisions.* (i) After deletion of personal information, a redacted copy of each decision will be indexed by subject and made available for review and copying at a public reading room at Crystal Mall 4, 1941 Jefferson Davis Highway, Arlington, Virginia. The index will be in a usable and concise form so as to indicate the topic considered and the reasons for the decision. Under the Freedom of Information Act, 5 U.S.C. 552, records created on or after November 1, 1996 shall be available by electronic means.

(ii) Under the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act of 1974, 5 U.S.C. 552(a), the ABCMR will not furnish to third parties information submitted with or about an application unless specific written authorization is received from the

applicant, or as otherwise authorized by law.

Loren G. Harrell,

Director, Army Board for Correction of Military Records.

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BILLING CODE 3710-08-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 55

[USCG 1998-3821]

RIN 2115-AF48

Coast Guard Child Development Services Programs

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish child development services for eligible children of the Department of Transportation military and civilian personnel and eligible children of armed forces members and federal civilian employees. This proposed rule also establishes the basis for a "total family income" sliding fee schedule to make child care more affordable for lower-income families in center-based programs. This proposed rule also provides a mechanism to reduce fees for users of family child care providers through the use of appropriated funds.

DATES: Comments must reach the Docket Management Facility on or before October 29, 1998.

ADDRESSES: You may mail comments to the Docket Management Facility, (USCG 1998-3821), U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001, or deliver them to room PL-401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

The Docket Management Facility maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room PL-401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT:

For questions about the docket, contact Ms. Paulette Twine, Chief, Documentary

Services Division, Department of Transportation, telephone 202-366-9329. For questions about this notice, contact Ms. Elaine Sweetland, Project Manager, Office of Work-Lift (202) 267-6727 or Ms. Jessie Broadaway, Project Manager, Office of Work-Life (202) 267-6728.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to submit written data, views, or arguments. If you submit comments, you should include your name and address, identify this rulemaking (USCG 1998-3821) and the specific section or question in this document to which your comments apply, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES**. If you want us to acknowledge receiving your comments, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period.

The Coast Guard plans no public meeting. You may request a public meeting by submitting a request to the address under **ADDRESSES**. The request should include the reasons why a meeting would be beneficial. If the Coast Guard determines that a public meeting should be held, it will hold the meeting at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The first child care programs in the Coast Guard were spouse sponsored and met in buildings that a command was not using. In the early 1970's, Coast Guard sponsored child care centers were developed and became Morale, Welfare, and Recreation (MWR) activities under policy promulgated by MWR, following Department of Defense guidelines. In 1987 the two centers remaining under spouse sponsorship were brought into the Coast Guard MWR system and policy specific to Coast Guard child care was issued.

In 1996 the Child Development Services Manual, Commandant Instruction M1754.15 was issued providing policy guidance to manage and run Coast Guard child care programs. A copy of the manual is in the docket of the rulemaking and available therefor review. The policy directives in the Manual apply to all child development services provided by the Coast Guard, including center-based

and family child care. The manual provides the policy for eligibility for services, health and safety standards, staff-to-child ratios, program and staff training requirements, discipline policies, facility requirements, child abuse prevention and reporting requirements, special needs children, parental involvement, and financial management.

In 1996 new legislation was passed regarding child development services. The Coast Guard Authorization Act of 1996 (Act) added section 515 to Title 14 of the U.S. Code, which requires the Secretary of Transportation to promulgate regulations to implement section 515. The authority to promulgate regulations pertaining to section 515 and other authorities under the Act was delegated to the Commandant of the Coast Guard on July 18, 1997 (62 FR 38478). Section 515 allows the Commandant to make Coast Guard child development services available to members of the Armed Forces and Federal civilian employees. The Act requires that the regulations establish fees to be charged for child development services that take into consideration total family income.

The purpose of this rulemaking is to implement section 515 and establish a fee regime to permit eligible federal employees and military members to take advantage of Coast Guard offered child care services. The Child Development Services Manual will continue to provide policy guidance to supplement the rule.

Discussion of Proposed Rule

Because child development services apply to civilian employees as well as military members, we propose to remove the word "Military" from the heading at 33 Code of Federal Regulations, Subchapter B, so the heading reads "Personnel." Within Subchapter B, this proposed rule creates a new part 55 of 33 Code of Federal Regulations.

Section 55.5. This proposed section describes the military members and civilian employees who are eligible to use the Coast Guard's child development services. These include Coast Guard members, civilian Coast Guard employees, and other military personnel and Federal civilian employees, on a space available basis.

Section 55.9. This proposed section conforms to the requirements of 14 U.S.C. 515(c). Paragraph (a) provides for regular and unannounced inspections of child development centers by headquarters program personnel, the commanding officer of the sponsoring command, fire personnel, and health

and safety personnel. Paragraph (b) provides for employee training on a monthly basis. Training will be conducted by the Center Director and others arranged for by the Director with expertise in specific disciplines, and will consist of training about early childhood development, activities and disciplinary techniques, child abuse prevention and detection, and emergency medical procedures.

Section 55.11. This proposed section establishes a total family income chart to be used to calculate fees at child development centers. Fees will vary, depending on total family income, and geographic location. Fees for each of the prescribed categories will be set by the local command to cover the expenses of that particular center. Fees are set by the local command rather than at Coast Guard headquarters because the primary expense for providing child care services is salaries, which vary widely in the geographic areas where the Coast Guard operates. The chart in Subsection (a) is to be used by each local command to establish a sliding fee scale, based on total family income. "Total family income" is defined in section 55.7. We are adopting the DOD definitions of total family income and the five income categories of the sliding fee scale as they apply to child development services. Adopting the DOD definitions will ensure that military members from all the services have equivalent eligibility requirements at Coast Guard and DOD child development centers.

Subsection (b) discusses the proper use of fees collected from parents for child care services. To conform with the requirements of 14 U.S.C. 515(b), these fees can only be used to compensate those employees who are directly involved in providing child care services at center-based programs unless use of fees in this manner is determined to be uneconomical and inefficient. Uneconomical and inefficient means that using the fees in this manner would not provide a quality program at an affordable cost to parents using the child care services. If this is the case, then the fees may be used for consumable or disposable items for the centers. If these needs have been met, the fees may then be used for other center expenses.

Section 55.13. This proposed section discusses family home day care providers and Coast Guard Family Child Care Providers. A family home care provider is an individual licensed by a state agency who offers child care in his or her home. A Coast Guard Family Child Care Provider is a Coast Guard family member who provides child care in Coast Guard -leased or -owned

housing. Approval procedures are detailed in the Child Development Services manual. Family child care is an option because it can provide flexibility in meeting unusual duty hours and best meets the needs of personnel at smaller units.

When available, appropriated funds may be used to reduce the child care costs of eligible persons who choose to use family child care. Guidelines concerning family child care are contained in the Child Development Services Manual.

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This proposed rule would apply only to providers of Coast Guard child development services programs.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include 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 small entities affected by this rule are family home day care providers (e.g., Coast Guard Family Child Care Providers). If funds are available, the family home day care providers may receive funding to enable them to provide services to families of Coast Guard military members and Coast Guard civilian employees at a more affordable rate. This rulemaking does not result in any change in the amount of income received by family home day care providers.

Therefore, the Coast Guard's position is that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a

small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see ADDRESSES) explaining why you think it qualifies, and in what way and to what degree this rule will economically affect it.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact The Dependent Resource Coordinator or Family Child Care Coordinator on the Coast Guard Work-Life Staff that serves your geographic area.

Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

Under paragraph 2.B.2.b.(34) of Commandant Instruction M16475.1B, this proposed rule is categorically excluded from further environmental documentation. This authority deals with the use of Coast Guard funds for Coast Guard Child Development Services and requirements for facility and program inspections and for staff training and has no impact on the environment.

A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 55

Day care, Government Employees, Infants and Children and Military Personnel.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR Chapter I as follows:

1. In the heading of Subchapter B, remove the word "Military."
2. Add part 55 to Subchapter B to read as follows:

PART 55—CHILD DEVELOPMENT SERVICES

Subpart A—General

Sec.

55.1 Purpose.

55.3 Who Is Covered by this Part?

55.5 Who is Eligible for Child Development Services?

55.7 Definitions.

55.9 Child Development Centers.

55.11 How are Child Development Center Fees Established?

55.13 Family Child Care.

Authority: 14 U.S.C. 515.

Subpart A—General

§ 55.1 Purpose.

This subpart implements 46 U.S.C. 515, which provides for Coast Guard Child Development Services.

§ 55.3 Who Is Covered by this Part?

This subpart applies to all Coast Guard installations.

§ 55.5 Who Is Eligible for Child Development Services?

Coast Guard members and civilian Coast Guard employees are eligible for the Child Development Services described in this subpart. As space is available, members of the other Armed Forces and other Federal civilian employees are also eligible.

§ 55.7 Definitions.

As used in this part—

Child Development Center means a facility located on a Coast Guard installation that offers, on a regularly scheduled basis, developmental services designed to foster social, emotional, physical, creative, and intellectual growth to groups of children.

Child Development Services means developmental services provided at a child development center or by a family child care provider at his or her Coast Guard-owned or -leased home.

Coast Guard Family Child Care Provider means a Coast Guard family member, 18 years of age or older, who provides child care for 10 hours or more per week per child to one but no more than six children, including the provider's own children under the age of eight, on a regular basis in his or her Coast Guard-owned or -leased housing.

Coast Guard Family Child Care Services means child care provided on a regularly scheduled basis for 10 hours or more a week by an individual certified by the Coast Guard and who resides in Coast Guard-controlled housing.

Command means the Commanding Officer of one or more units of personnel in a limited geographic area with responsibility for a child development center.

Family Child Care means child care provided in the home of a provider, either a Coast Guard Family Child Care Provider or a Family Home Day Care Provider.

Family Home Day Care Provider means an individual 18 years of age or older who is licensed by the state agency that regulates child care. This person provides child care to one but to no more than six children, including the provider's own children under the age of eight, on a regular basis in his or her residence.

Geographic Cost of Living Allowance means the adjustment in basic pay related to higher living costs in certain geographic areas.

Total Family Income means the earned income for adult members of the household including wages, salaries, tips, long-term disability benefits received by a family, incentive and special pay for service or anything else of value, even if not taxable, that was received for providing services. Also included is Basic Allowance for Housing and Basic Allowance for Subsistence authorized for the pay grade of military personnel, whether the allowance is received in cash or in-kind. Total Family Income does not include: the geographic cost of living allowances; alimony and child support; temporary duty allowances or reimbursements for educational expenses; veterans benefits; workers compensation benefits; and, unemployment compensation. These are to be excluded from Total Family Income.

Uneconomical and inefficient means that the fees collected from parents can not be used in a manner that provides a quality program at an affordable cost to parents using the child care services.

§ 55.9 Child Development Centers.

(a) The Commandant may make child development services available at Child Development Centers located at Coast Guard Installations.

(b) Regular and unannounced inspections of each child development center shall be conducted annually by headquarters program personnel, the commanding officer of the sponsoring command, fire personnel, and health and safety personnel.

(c) Training programs shall be conducted monthly to ensure that all child development center employees complete a minimum of 20 hours of training annually with respect to early childhood development, activities and

disciplinary techniques appropriate to children of different ages, child abuse prevention and detection, and appropriate emergency medical procedures.

§ 55.11 How Are Child Development Center Fees Established?

(a) Fees for the provision of services at child development centers shall be set by each Command with responsibility for a center-based program, according to the following total family income chart:

Total Family Income

\$0 to \$23,000
\$23,001 to \$34,000
\$34,001 to \$44,000
\$44,001 to \$55,000
Over \$55,000

(b) Fees for the provision of services at Coast Guard child development centers shall be used only for compensation for employees at those centers who are directly involved in providing child care, unless it is uneconomical and inefficient. If uneconomical and inefficient, then the fees may be used for:

(1) The purchase of consumable or disposable items for Coast Guard child development centers; and

(2) If the requirements of such centers for consumable or disposable items for a given fiscal year have been met, for other expenses of those centers.

§ 55.13 Family Child Care Providers.

When appropriated funds are available, funds may be offered to provide assistance to Coast Guard Family Child Care Providers or to family home day care providers so that family child care services can be provided to military members and civilian employees of the Coast Guard, at a cost comparable to the cost of services at Coast Guard child development centers.

Dated: July 28, 1998.

T.J. Barrett, RADM, USCG,

Assistant Commandant for Human Resources, Acting.

[FR Doc. 98-25931 Filed 9-28-98; 8:45 am]

BILLING CODE 4910-15-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1190 and 1191

Accessibility Guidelines for Outdoor Developed Areas; Meeting of Regulatory Negotiation Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Regulatory negotiation committee meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans with Disabilities Act and the Architectural Barriers Act. This document announces the dates, times, and location of the next meeting of the committee, which is open to the public.

DATES: The committee will meet on: Wednesday, October 21, 1998, 8:30 a.m. to 5:00 p.m.; Thursday, October 22, 1998, 8:30 a.m. to 5:00 p.m.; Friday, October 23, 1998, 8:30 a.m. to 5:00 p.m.; and Saturday, October 24, 1998, 8:30 a.m. to noon.

ADDRESSES: The committee will meet at the Rocky Mountain Village, Alvarado Road (off I-70), Empire, Colorado.

FOR FURTHER INFORMATION CONTACT: Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC, 20004-1111. Telephone number (202) 272-5434 extension 34 (Voice); (202) 272-5449 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disc) upon request. This document is also available on the Board's web site (<http://www.access-board.gov/rules/outdoor.htm>).

SUPPLEMENTARY INFORMATION: In June 1997, the Access Board established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans with Disabilities Act and the Architectural Barriers Act. (62 FR 30546, June 4, 1997). The committee will hold its next meeting on the dates and at the location announced above. The meeting is open to the public. The meeting site is accessible to individuals with disabilities. Individuals with hearing impairments who require sign language interpreters should contact Peggy Greenwell by October 9, 1998, by calling (202) 272-5434 extension 34 (voice) or (202) 272-5449 (TTY).

James J. Raggio,

General Counsel.

[FR Doc. 98-25985 Filed 9-28-98; 8:45 am]

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