

this rule under that Order and have determined that this rule does not have implications for federalism.

#### 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 or more in any one year. Though this rule does not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

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

#### 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.

#### 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 will not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### 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.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of

energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

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

■ 2. From 7 a.m. (local) August 9, 2004, until 8 p.m. (local) August 17, 2004, add § 165.T09–001 to read as follows:

#### § 165.T09–001 Security Zone; Professional Golfer’s Association Championship Tour, Sheboygan, WI; Lake Michigan.

(a) *Location.* The following area is a security zone: All waters and adjacent shoreline encompassed by the following coordinates starting at 43°52.385′ N, 087°44.211′ W; then east to 43°52.405′ N, 087°43.205′ W; then south to 43°49.601′ N, 087°42.702′ W; then west to 43°49.604′ N, 087°43.773′ W; then following the shoreline north back to point of origin (NAD 83).

(b) *Effective period.* This section is effective from 7 a.m. (local) August 9, 2004, until 8 p.m. (local) August 17, 2004.

(c) *Regulations.* (1) Entry into or remaining in this zone is prohibited unless authorized by Captain of the Port Milwaukee.

(2) Persons desiring to transit the area of the security zone may contact the

Captain of the Port at telephone number (414) 747–7155 or on VHF channel 16 or VHF channel 21A to seek permission to transit the area. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his designated representative.

Dated: June 2, 2004.

**H.M. Hamilton,**

*Commander, U.S. Coast Guard, Captain of the Port Milwaukee.*

[FR Doc. 04–13074 Filed 6–9–04; 8:45 am]

**BILLING CODE 4910–15–P**

#### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 4

RIN 2900–AJ60

#### Schedule for Rating Disabilities; The Spine; Correction

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule; correction.

**SUMMARY:** In a document published in the **Federal Register** on August 27, 2003 (68 FR 51454), we amended a portion of the Department of Veterans Affairs (VA) Schedule for Rating Disabilities that addresses the spine. The document inadvertently omitted text that previously appeared in the table of the proposed rule published in the **Federal Register** on September 4, 2002 (67 FR 56509). This document corrects that omission by reinserting the two missing notes (pertaining to code 5243) into the table.

**DATES:** *Effective Date:* This correction is effective September 26, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Audrey Tomlinson, Medical Officer, Policy and Regulations Staff (211B), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273–7230.

**SUPPLEMENTARY INFORMATION:** A final rule, RIN 2900–AJ60; Schedule for Rating Disabilities; The Spine, was published on August 27, 2003 (68 FR 51454) (to be codified at 38 CFR 4.71a). Two notes that provide guidance with regard to rating intervertebral disc syndrome (diagnostic code 5243) that were published in the proposed rule in the **Federal Register** on September 4, 2002, (67 FR 56509) were inadvertently omitted from the final rule. As noted in the proposed rule, the amendments made editorial changes to the evaluation criteria for intervertebral disc syndrome to make them compatible with the new

general rating formula and did not represent any substantive change.

### Administrative Procedure Act

The change that this final rule makes merely corrects the omission of two notes ("Note (1)" and "Note (2)") from the Spine Table. Accordingly, there is good cause for dispensing with the notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

■ For the reasons set out in the preamble, 38 CFR part 4, subpart B, is amended as set forth below:

#### Subpart B—[Amended]

■ 1. The authority citation for part 4 continues to read as follows:

**Authority:** 38 U.S.C. 1155, unless otherwise noted.

■ 2. In § 4.71a, the table titled "The Spine" is amended by adding Notes 1 and 2 at the end of the entries under the heading "Formula for Rating Intervertebral Disc Syndrome Based on Incapacitating Episodes" to read as follows:

#### § 4.71a Schedule of ratings— musculoskeletal system.

\* \* \* \* \*

**Note (1):** For purposes of evaluations under diagnostic code 5243, an incapacitating episode is a period of acute signs and symptoms due to intervertebral disc syndrome that requires bed rest prescribed by a physician and treatment by a physician.

**Note (2):** If intervertebral disc syndrome is present in more than one spinal segment, provided that the effects in each spinal segment are clearly distinct, evaluate each segment on the basis of incapacitating episodes or under the General Rating Formula for Diseases and Injuries of the Spine, whichever method results in a higher evaluation for that segment.

Dated: May 27, 2004.

**Robert C. McFetridge,**

*Director, Regulations Management.*

[FR Doc. 04-12723 Filed 6-9-04; 8:45 am]

**BILLING CODE 8320-01-U**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[TX-70-2-7347a; FRL-7672-7]

#### Approval and Promulgation of Implementation Plans for Texas; Approval of Section 179B Demonstration of Attainment, Volatile Organic Compounds and Nitrogen Oxides Motor Vehicle Emissions Budgets for Conformity for the El Paso Ozone Nonattainment Area

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

**ACTION:** Direct final approval.

**SUMMARY:** The EPA is approving, through direct final action, a revision to the Texas State Implementation Plan (SIP), submitted to show attainment of the one-hour ozone National Ambient Air Quality Standard (NAAQS) in the El Paso ozone nonattainment area, but for emissions emanating from outside of the United States. The EPA is also approving the El Paso area's Volatile Organic Compounds (VOCs) and Nitrogen Oxides (NO<sub>x</sub>) emissions budgets. The State submitted the revisions to satisfy sections 179B and other Part D requirements of the Federal Clean Air Act (CAA).

**DATES:** This rule is effective on August 9, 2004, without further notice, unless EPA receives adverse comment by July 12, 2004. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

**ADDRESSES:** Submit your comments, identified by File ID No. TX-70-2-7347, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- U.S. EPA Region 6 "Contact Us" Web site: <http://epa.gov/region6/r6coment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

- E-mail: Mr Thomas Diggs at [diggs.thomas@epa.gov](mailto:diggs.thomas@epa.gov). Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- Fax: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), at 214-665-7263.

- Mail: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- Hand or Courier Delivery: Mr. Thomas Diggs, Chief, Air Planning Section (6PD-L), Environmental

Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Please include the text "Public comment on File ID No. TX-70-2-7347" in the subject line of the first page of your comments. EPA's policy is that all comments received will be included in the public file without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://regulations.gov), or e-mail. The federal [regulations.gov](http://regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Official File:** Copies of the documents relevant to this action are in the official file which is available at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA