

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.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, 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 this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. Therefore, this rule is categorically excluded, under section 2.B.2, figure 2–1, paragraph (34)(g) of the Instruction. Paragraph (34)(g) covers regulations establishing, disestablishing, or changing security zones. This rule involves temporarily establishing a

security zone in the Captain of the Port Houston-Galveston zone.

Neither an environmental assessment nor an environmental impact statement is required. An "Environmental Analysis Check List" and a categorical exclusion are available in the docket where indicated under **ADDRESSES**.

### 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 proposes to amend 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; 3706; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T818 to read as follows:

#### § 165.T818 Moving Security Zones for Certain Vessels in Freeport Entrance Channel, Freeport, Texas.

(a) *Location.* The following areas are security zones: All waters within the Captain of the Port Houston-Galveston Zone commencing at U.S. territorial waters through the Freeport Entrance Channel, from surface to bottom, one thousand (1,000) yards ahead and astern and five hundred (500) yards on each side of any vessel within the 12 nautical mile U.S. Territorial Waters in the Captain of the Port Houston-Galveston zone that displays the international signal flag or pennant number five.

(b) *Definitions.* For the purposes of this section:

*Designated Representative* means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Houston-Galveston, to assist in the enforcement of the security zone.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port Houston-Galveston or a designated representative.

(2) Entry into or remaining in the security zones described in paragraph (a) of this section is prohibited for all vessels except:

(i) Moored vessels or vessels anchored in a designated anchorage area. A moored or an anchored vessel in a security zone must remain moored or

anchored unless it obtains permission from the Captain of the Port Houston-Galveston to do otherwise;

(ii) Commercial vessels operating at the waterfront facilities within these security zones;

(iii) Commercial vessel transiting directly to or from waterfront facilities within these security zones;

(iv) Vessels providing direct operational/logistic support to commercial vessels within these security zones;

(v) Vessels operated by the port authority or by facilities located within these security zones; and

(vi) Vessels operated by federal, state, county, or municipal agencies;

(3) All persons and vessels within the moving security zone must comply with the instructions of the Captain of the Port Houston-Galveston and designated on-scene U.S. Coast Guard patrol personnel.

(4) To request permission as required by these regulations, contact the Sector Houston-Galveston Command Center by telephone at 713–671–5113. In Freeport, vessels should contact the Captain of the Port Houston-Galveston's designated representative for the moving security zone on VHF Channel 16, or by telephone at 979–233–7551.

(d) *Informational broadcasts.* The Captain of the Port Houston-Galveston will inform the public when moving security zones have been established around certain vessels via Broadcast Notice to Mariners on VHF channel 16 and 13.

Dated: January 15, 2009.

**William J. Diehl,**

*Captain, U.S. Coast Guard, Captain of the Port Houston-Galveston.*

[FR Doc. E9–6820 Filed 3–26–09; 8:45 am]

#### BILLING CODE

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Part 424

[CMS–6006–F2]

RIN 0938–AO84

### Medicare Program; Surety Bond Requirement for Suppliers of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS); Correcting Amendment

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

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

**SUMMARY:** This correcting amendment corrects a technical error in the amendatory instructions of the regulations text in the final rule entitled “Medicare Program; Surety Bond Requirement for Suppliers of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)” published in the January 2, 2009 **Federal Register** (74 FR 166). In that final rule, we implemented section 1834(a)(16)(B) of the Social Security Act (the Act) requiring certain Medicare suppliers of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) to furnish CMS with a surety bond. In addition, in the January 2, 2009 final rule, we responded to public comments on the August 1, 2007 proposed rule (72 FR 42001). The effective date for the January 2, 2009 final rule was March 3, 2009.

**DATES: Effective Date:** This correcting amendment is effective March 27, 2009.

**FOR FURTHER INFORMATION CONTACT:** Frank Whelan, (410) 786-1302.

**SUPPLEMENTARY INFORMATION:**

**I. Background and Summary of Error**

In FR Doc. E8-30802 issued on January 2, 2009 (74 FR 166), the final rule entitled “Medicare Program; Surety Bond Requirement for Suppliers of Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS), there was a technical error that is identified and corrected in this document. The error was the result of a conflicting amendatory instruction in the “Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2009” final rule with comment period (73 FR 69726) that was effective January 1, 2009. The correction in this correcting amendment is effective on March 27, 2009.

On page 198 of the January 2, 2009 final rule, we made a technical error in the amendatory instruction for § 424.57. In the first amendatory instruction 2.D., the phrase “Redesignating paragraphs (d) and (e) as paragraphs (e) and (f)” should be corrected to read “Redesignating paragraphs (d) and (e) as paragraphs (e) and (g).”

**II. Waiver of Proposed Rulemaking and Delay in Effective Date**

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a notice such as this take effect, in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). We also ordinarily provide a 30-day delay in the effective

date of the provisions of a notice in accordance with section 553(d) of the APA (5 U.S.C. 553(d)). However, we can waive both the notice and comment procedure and the 30-day delay in effective date if the Secretary finds, for good cause, that it is impracticable, unnecessary or contrary to the public interest to follow the notice and comment procedure or to comply with the 30-day delay in the effective date, and incorporates a statement of the findings and the reasons in the notice.

This action merely corrects a technical error in the January 2, 2009 final rule that was promulgated through notice and comment rulemaking. We are in no way changing the policy contained in that rule. For this reason, we find that both notice and comment and the 30-day delay in effective date for this action are unnecessary. Therefore, we find there is good cause to waive notice and comment procedures and the 30-day delay in effective date for this action.

**List of Subjects in 42 CFR Part 424**

Emergency medical services, Health facilities, Health professions, Medicare.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

**PART 424—CONDITIONS FOR MEDICARE PAYMENT**

■ 1. The authority citation for part 424 is revised to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

**Subpart D—To Whom Payment Is Ordinarily Made**

**§ 424.57 [Amended]**

■ 2. Section 424.57 is amended by redesignating paragraphs (d) and (e) as paragraphs (e) and (g).

**Authority:** Catalog of Federal Domestic Program No. 93.774, Medicare—Supplementary Medical Insurance Program.

Dated: March 17, 2009.

**Ashley Files Flory,**

*Acting Executive Secretary to the Department.*  
[FR Doc. E9-6778 Filed 3-26-09; 8:45 am]

**BILLING CODE 4120-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Parts 447 and 457**

[CMS-2244-F3]

RIN 0938-A047

**Medicaid Program; Premiums and Cost Sharing**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule; delay of effective date and reopening of comment period.

**SUMMARY:** This action temporarily delays the effective date of the November 25, 2008 final rule entitled, “Medicaid Program; Premiums and Cost Sharing” (73 FR 71828) until December 31, 2009. In addition, this action reopens the comment period on the policies set out in the November 25, 2008 final rule, and specifically solicits comments on the effect of certain provisions of the American Recovery and Reinvestment Act of 2009.

**DATES: Effective Date.** This action is effective March 26, 2009. The effective date of the rule amending 42 CFR parts 447 and 457 published in the November 25, 2008 **Federal Register** (73 FR 71828) is delayed until December 31, 2009.

**Comment Period.** To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on April 27, 2009.

**ADDRESSES:** In commenting, please refer to file code CMS-2244-F3. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the instructions for “Comment or Submission” and enter the file code to find the document accepting comments.

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-2244-F3, P.O. Box 8010, Baltimore, MD 21244-8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments (one