

the human environment. This rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, and sail board racing. Under figure 2-1, paragraph (34)(h), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule. We seek any

comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

**List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

**PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS**

1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233.

2. In the Table to § 100.501, suspend line No. 41 from July 1, 2009 to July 31, 2009; and

a. From 9 a.m. to 5:30 p.m., on July 12, 2009, add line No. 63.

The addition reads as follows:

**§ 100.501–T05–0252 Special Local Regulations; Recurring Marine Event in the Fifth Coast Guard District.**

\* \* \* \* \*

Table To § 100.501.—All coordinates listed in the Table to § 100.501 reference Datum NAD 1983.

**COAST GUARD SECTOR HAMPTON ROADS—COTP ZONE**

Number	Date	Event	Sponsor	Location
63	July 12, 2009	Watermen's Heritage Festival Workboat Races.	Watermen's Museum of Yorktown, VA.	The waters of the York River, Yorktown, Virginia, bounded on the west by a line drawn along longitude 076°31'25" W, bounded on the east by a line drawn along longitude 076°30'55" W, bounded on the south by the shoreline and bounded on the north by a line drawn parallel and 400 yards north of the southern shoreline.

\* \* \* \* \*

Dated: April 27, 2009.  
**Fred M. Rosa, Jr.**  
*Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*  
 [FR Doc. E9-10973 Filed 5-11-09; 8:45 am]  
**BILLING CODE 4910-15-P**

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 36**

**RIN 2900-AN26**

**Loan Guaranty: Assistance to Eligible Individuals in Acquiring Specially Adapted Housing; Cost-of-Construction Index**

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs' (VA's) Loan Guaranty regulations concerning assistance to eligible individuals in acquiring specially adapted housing. The proposed change would implement provisions of the Housing and Economic Recovery Act of 2008, which authorized VA to provide for automatic annual increases in the dollar amounts

available to certain Specially Adapted Housing grant recipients.  
**DATES:** Comments must be received on or before June 11, 2009.  
**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., 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-AN26—Loan Guaranty: Assistance to Eligible Individuals in Acquiring Specially Adapted Housing; Cost-of-Construction Index." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at <http://www.Regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Katherine Faliski, Assistant Director for Loan Policy and Valuation, Loan Guaranty Service (26), Veterans Benefits

Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461-9527. (This is not a toll-free telephone number.)

**SUPPLEMENTARY INFORMATION:** The Housing and Economic Recovery Act of 2008, Public Law 110-289, directed the Secretary of Veterans Affairs to establish a residential home cost-of-construction index for the purpose of increasing certain Specially Adapted Housing (SAH) grant amounts. The law left it to the Secretary's discretion to determine whether to develop a new index or to select one from the private sector. It required that any index selected, however, must reflect a uniform, national average change in the cost of residential home construction, determined on a calendar-year basis. This proposed rule identifies the index the Secretary plans to select, explains how the increase would be calculated, and requires the Secretary to publish annually in the **Federal Register** the aggregate amounts of assistance available.

**Selection of a Cost-of-Construction Index**

The Department of Veterans Affairs (VA) believes that an existing private sector index is appropriate for the purposes of 38 U.S.C. 2102(d). VA

believes this is preferable to establishing a VA-specific index because VA does not have the necessary resources and expertise to continuously monitor the costs of construction nationwide.

This proposed rule identifies the Turner Building Cost Index (TBCI) as the index the Secretary plans to adopt. The TBCI has been prepared for more than 80 years. It tracks building costs and price trends nationwide. The factors considered in calculating the index include labor rates, productivity, material prices, and market conditions. As a result of TBCI's emphasis on the costs of labor and materials, rather than property values or sales prices, it is best suited to reflect the cost of acquiring the adaptations needed by the veterans and servicemembers served by the SAH program.

VA considered a number of alternatives to the TBCI. These alternatives included three indices computed by the United States Census Bureau: (1) The Laspeyres Price Index, which tracks increases in the sales price of homes while keeping housing quality constant; (2) the Paasche Index, which also measures changes in sales prices over time; and (3) the Fisher Ideal Index, which is a geometric average of the Laspeyres and Paasche Indices. Because all three Census Bureau indices track home sales prices, rather than construction costs, VA does not believe that they are as well suited for use with the SAH program as the TBCI. Home sales prices have little bearing on the cost of making adaptations to an eligible individual's home. Although SAH grants may be used to acquire a suitably adapted home, they are more often used to adapt an existing home.

VA also considered the Residential Cost Index published by Whitestone Research. The Whitestone Research Residential Cost Index (WRRCI) is based on multiple cost factors. Because the WRRCI tracks many cost factors that are not related to the labor and materials costs of making adaptations to an eligible individual's home, VA does not believe the WRRCI is as well suited to the SAH program as the TBCI.

#### **Calculating the Aggregate Amounts of Assistance Available**

On October 1 of each year, beginning with 2009, the Secretary must increase the aggregate amounts of assistance available for SAH grants authorized under 38 U.S.C. 2101(a) and (b). In accordance with 38 U.S.C. 2101(e), the increase will equal the percentage by which the cost-of-construction index increased between the two preceding calendar years. In other words, for the adjustment effective October 1, 2009,

the Secretary must calculate the percentage by which the TBCI increased between calendar years 2007 and 2008. On October 1, the Secretary must increase the grant amounts by that amount. If, in any given calendar year, the TBCI remains flat or decreases, the aggregate amounts of assistance available will not change.

#### **Publication in the Federal Register**

Section 2102(e) of title 38, U.S.C., requires that the annual increase in the aggregate amounts of assistance available occur on October 1 of each year. The proposed rule would require that the Secretary publish the resulting figures in the **Federal Register** by September 30. VA believes that this would provide adequate notice to the public of the new aggregate amounts of assistance available each year. (**Note:** After publication, the figures also would be available on the Loan Guaranty Web site at <http://www.homeloans.va.gov/sah.htm>.)

#### **Administrative Procedure Act**

The Secretary has determined that there is good cause to limit the public comment period on this rule to 30 days. This proposed rule is necessary to implement Congress' directive to establish a cost-of-construction index to implement statutorily mandated increases by October 1, 2009. Therefore, in order to comply with this statute, the Secretary has provided a 30-day comment period for this 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 expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### **Paperwork Reduction Act**

This document contains no provisions constituting collections of information.

#### **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 Executive Order classifies a regulatory

action as a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) unless OMB waives such a review, if it is a regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this proposed rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866.

#### **Regulatory Flexibility Act**

The Secretary hereby certifies that this proposed rule would 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 *et seq.* This proposed rule will directly affect only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

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

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.106, Specially Adapted Housing for Disabled Veterans; and 64.118, Veterans Housing—Direct Loans for Certain Disabled Veterans.

#### **Lists of Subjects in 38 CFR Part 36**

Condominiums, Housing, Indians, Individuals with disabilities, Loan programs—housing and community development, Loan programs—Indians, Loan programs—veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Approved: April 17, 2009.

**John R. Gingrich,**

*Chief of Staff, Department of Veterans Affairs.*

For the reasons set out in the preamble, VA proposes to amend 38 CFR part 36 (Subpart C) as set forth below.

## PART 36—LOAN GUARANTY

### Subpart C—Assistance to Certain Disabled Veterans in Acquiring Specially Adapted Housing

1. The authority citation for part 36 continues to read as follows:

**Authority:** 38 U.S.C. 501 and as otherwise noted.

2. Add § 36.4412 to read as follows:

#### § 36.4412 Annual adjustments to the aggregate amount of assistance available.

(a) On October 1 of each year, the Secretary will increase the aggregate amounts of assistance available for grants authorized under 38 U.S.C. 2101(a) and 2101(b). Such increase will be equal to the percentage by which the Turner Building Cost Index for the most recent calendar year exceeds that of the next preceding calendar year.

(b) Notwithstanding paragraph (a) of this section, if the Turner Building Cost Index for the most recent full calendar year is equal to or less than the next preceding calendar year, the percentage increase will be zero.

(c) No later than September 30 of each year, the Secretary will publish in the **Federal Register** the aggregate amounts of assistance available for the upcoming fiscal year.

(Authority: 38 U.S.C. 2102(e))

[FR Doc. E9-11079 Filed 5-11-09; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 51 and 52

[EPA-HQ-OAR-2009-0021; FRL-8766-3]

### Stay of Clean Air Interstate Rule for Minnesota; Stay of Federal Implementation Plan To Reduce Interstate Transport of Fine Particulate Matter and Ozone for Minnesota

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to stay the effectiveness, in the State of Minnesota only, of two final rules issued under section 110 of the Clean Air Act (CAA) related to the interstate transport of

pollutants. On May 12, 2005, EPA issued the Clean Air Interstate Rule (CAIR). In CAIR, EPA required Minnesota and other states to submit State Implementation Plan (SIP) revisions to limit nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>) emissions for the purpose of reducing the contributions these emissions make to particulate matter and ozone transport across state boundaries in the eastern half of the U.S. On April 28, 2006, EPA published Federal Implementation Plans (CAIR FIPs) containing requirements to serve as a backstop until replaced by an approved SIP.

Subsequently, the U.S. Court of Appeals for the D.C. Circuit held that EPA had not properly addressed possible errors in the analysis supporting EPA's decision that Minnesota should be included in the CAIR region for fine particulate matter (PM<sub>2.5</sub>). EPA is proposing to stay the effectiveness of CAIR and the CAIR FIP with respect to sources in Minnesota only, while EPA conducts a notice-and-comment rulemaking addressing this issue and its impact on the inclusion of Minnesota in CAIR.

**DATES:** Comments must be received on or before June 11, 2009. If anyone contacts us requesting a public hearing by May 22, 2009, we will hold a public hearing approximately 30 days after publication in the **Federal Register**. Additional information about the hearing would be published in a subsequent **Federal Register** notice.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2009-0021, by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *E-mail:* [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov). Attention Docket ID No. EPA-HQ-OAR-2009-0021.
- *Fax:* (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2009-0021.
- *Mail:* EPA Docket Center, EPA West (Air Docket), Attention Docket ID No. EPA-HQ-OAR-2009-0021, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center (Air Docket), Attention Docket ID No. EPA-HQ-OAR-2009-0021, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room 3334; Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2009-0021. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), 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 [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.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 [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket 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 and any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the EPA Docket Center EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Tim Smith, Air Quality Planning Division,