Vessels that can transit the bridge, while in the closed-to-navigation position, may continue to do so at any time. In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: March 21, 2013.

D.H. Sulouff,

Bridge Section Chief, Eleventh Coast Guard District.

[FR Doc. 2013–07572 Filed 4–1–13; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AO01

Grants for Transportation of Veterans in Highly Rural Areas

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) amends its regulations to establish a new program to provide grants to eligible entities to assist veterans in highly rural areas through innovative transportation services to travel to VA medical centers, and to otherwise assist in providing transportation services in connection with the provision of VA medical care to these veterans, in compliance with section 307 of title III of the Caregivers and Veterans Omnibus Health Services Act of 2010. This final rule establishes procedures for evaluating grant applications under the new grant program, and otherwise administering the new grant program.

DATES: *Effective date:* This rule is effective May 2, 2013.

FOR FURTHER INFORMATION CONTACT: David Riley, Director, Veterans Transportation Service, Chief Business Office (10NB), Veterans Health Administration, Department of Veterans Affairs, 2957 Clairmont Road, Atlanta, GA 30329, (404) 828–5601. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 30, 2011, VA published in the **Federal Register** (76 FR 82212) a proposal to amend VA regulations to establish a grant program to provide innovative transportation options to veterans in highly rural areas, to comply with section 307 of title III of the Caregivers and Veterans Omnibus Health Services Act of 2010, Public Law 111–163. Subsection (a) of section 307 mandates that VA award grants to only State veterans service agencies (SVSAs) and Veterans Service Organization (VSOs) to assist veterans in highly rural areas to travel to VA medical centers, and to otherwise assist in providing transportation in connection with the provision of VA medical care to these veterans. This final rule establishes the grant program in accordance with subsection (a) of section 307, and establishes procedures for evaluating grant applications and otherwise administering the grant program in accordance with subsection (b) of section 307.

Interested persons were invited to submit comments to the proposed rule on or before February 28, 2012, and we received 17 comments. All of the issues raised by the commenters can be grouped together by similar topic, and we have organized our discussion of the comments accordingly. For the reasons set forth in the proposed rule and below, we are adopting the proposed rule as final, with changes to §§ 17.701, 17.703, 17.705, 17.715, and 17.725 and the authority citations following the regulations in this rulemaking.

Comments Regarding the Limitation on Entities That Are Eligible To Receive Grants

Multiple commenters objected to the proposed rule's limitation that only VSOs and SVSAs may receive grants. These commenters contended that this limitation would block many existing transportation providers from receiving grants to expand current veterans' transportation services, to the detriment of veterans generally. Commenters asserted that making grants available to any existing transportation provider would ensure that grants would be used more effectively because VSOs and SVSAs that receive grants would only be duplicating transportation services already offered to veterans by existing providers, and because VSOs and SVSAs do not have the expertise of existing transportation providers to access a particular area or transport that area's veterans. We make no changes to the rule based on these comments, because grantees are limited by section 307 to VSOs and SVSAs. Subsection (a)(2) of section 307 identifies as eligible grant recipients ''State veterans service agencies'' and ''Veterans service organizations.'' Subsection (a)(3) of section 307 further states that ''[a] State veterans service agency or veterans service organization'' may use grant funds for specified purposes. We interpret this statutory language to bar VA from awarding grants to any entity other than a VSO or SVSA.

To more specifically address commenter concerns regarding duplicated services and lack of grantee expertise, we note that most commenters seemed to assume that VSOs and SVSAs that receive grants would not themselves be existing transportation providers. However, we know of several VSOs and SVSAs that provide transportation services. Moreover, the rule contains scoring criteria to reward coordination between grantees and other transportation providers (including existing providers that may not qualify to receive grants), and rewarding this type of coordination assists in addressing the general concerns of duplicated services and lack of grantee expertise. See § 17.705(a)(3). Discussion of these coordination criteria, as well as discussion of why VSOs and SVSAs would not merely be duplicating existing transportation services, are provided in greater detail in the next section of this document. Generally, grantees may use grants to expand or augment the transportation services offered by transportation providers that may not qualify as grantees under the rule, or otherwise may use such entities to provide the transportation assistance that is established in a grantee's program, as long as all other criteria of the rule are met.

One commenter specifically asserted that section 307 could be interpreted in an ''innovative'' manner to allow a grant award to an organization such as a county-level agency within a State that is delegated responsibilities to serve veterans by an SVSA, based on the following language from section 307: ''The Secretary of Veterans Affairs shall establish a grant program to provide innovative transportation options to veterans in highly rural areas.'' Public Law 111–163, sec. 307(a)(1). We interpret the term ''innovative'' in section 307(a)(1), however, only as a modifier to describe the types of transportation options that may be provided to veterans in highly rural areas. We do not interpret the term as having any effect regarding the two defined eligible entities that may receive grants under section 307. The plain meaning of a ''State veterans service agency'' considers only State-level entities, and not a county agency within a State. However, under the same rationale provided above, this rule does not prevent an SVSA from using grant funds to administer transportation assistance through a county-level agency to carry out the objectives of the SVSA's grant application.

One commenter additionally stated that the rule should specifically permit non-profit organizations to apply for and receive grants. We reiterate that only VSOs and SVSAs may apply for and receive grants under section 307, but note that a majority of VSOs function as non-profit entities.

Comments Regarding Permitting Grantee Coordination With Entities That Are Not Eligible To Receive Grants

In conjunction with the comments objecting to limiting the grant recipients to VSOs and SVSAs, several commenters stated that the rule should permit, or even mandate, grantee coordination with entities that are not eligible to receive grants, primarily coordination with existing community transportation providers. Commenters argued that such coordination would prevent duplication of transportation services and ensure that experienced existing providers would be utilized, thereby maximizing the efficient provision of transportation services to veterans. As discussed above, nothing in the rule prevents a grantee from coordinating services with entities that are not eligible to receive grants, including other transportation providers. Generally, grantees may use grants to expand or augment the transportation services offered by entities that do not qualify as grantees under the rule, or otherwise may use such entities to provide the transportation assistance that is established in a grantee's program, as long as all other criteria of the rule are met. In fact, scoring criteria in § 17.705(a)(3) encourage and reward coordination with existing transportation providers, by permitting up to 20 additional points to be awarded for an application that shows such coordination.

Although the proposed rule did not prohibit grantees from using grant funds to administer grant programs through other entity types, we recognize that several commenters seemed to misunderstand this point. Therefore, we make clarifying changes to §§ 17.701, 17.703, 17.705, and 17.715. First, we are adding to § 17.701 a definition of ''subrecipient'' to refer to ''an entity that receives grant funds from a grantee to perform work for the grantee in the administration of all or part of the grantee's program.'' We believe ''subrecipient'' clearly covers all entity types that are not eligible to receive grants but that nonetheless may receive grant funds from grantees to administer all or part of the grantees' programs. One commenter noted that this rule should permit ''subcontracting'' relationships to achieve this same end; the revision to include consideration of ''subrecipient'' relationships covers subcontracted relationships between grantees and other entities.

Second, §§ 17.703, 17.705, and 17.715 are revised to clarify that subrecipients as defined in § 17.701 may receive grant funds from grantees; to ensure that subrecipients are identified in grant applications and grant agreements as applicable for application scoring and grant award purposes; and to make any identified subrecipients subject to the same standards as a grantee under this rule. We note that under applicable regulations that control grant agreements between VA and other entities, subrecipients of grant funds may be subject to certain standards under 38 CFR parts 43 and 49. See 38 CFR 43.37 and 38 CFR 49.5. A new paragraph (d) is added to § 17.703 as proposed to permit grantees to provide grant funds to other entities, if such entities are identified as subrecipients in grant applications to perform work for grantees in the administration of all or part of grantees' programs. The language ''or identified subrecipient'' is added to paragraphs (a)(1)(i), (c)(1)(i), (c)(1)(ii), and (c)(2)(i) of § 17.705, related to grant application scoring and grant selection procedures. Paragraph (a)(2) of § 17.715 as proposed is redesignated to paragraph (a)(3), and a new paragraph (a)(2) is added to § 17.715 as proposed to ensure that if a subrecipient is identified in the grant application, such subrecipient must operate the program in accordance with the provisions of this section and the grant application. The language ''or identified subrecipient'' is added to § 17.715(a)(3)(i) and (ii), related to specific requirements when grant funds are used to procure or operate vehicles. The language ''and identified subrecipients'' is added to paragraphs (b), (b)(1), and (b)(2) of § 17.715 as proposed, related to additional requirements for VA grants.

Comments Regarding Mandating Grantee Coordination With Entities That Are Not Eligible To Receive Grants

We generally agree with commenters that asserted that coordination between grantees and other transportation providers may create more efficient programs. For instance, a grantee partnering with an existing transportation provider to augment or expand the services of that provider could allow for the relatively small amount of funds issued per grant to be used as effectively as possible. As an example, such partnering may preclude the need for a grantee to acquire a fleet of vehicles. Additionally, grantee coordination with existing transportation providers may assist grantees in developing relevant expertise in the provision of transportation services to a particular area and for that area's veterans, if grantees do not already have such experience. However, we do not believe the rule should mandate grantee coordination with any other transportation provider because such a mandate could also ultimately restrict grantees in the planning and administration of their own programs in accordance with the criteria of section 307. For instance, grantee programs under section 307 must be focused on the provision of transportation assistance to veterans in connection with the receipt of medical care, and forced coordination between a grantee and an existing transportation provider could divert grant resources to the transportation of non-veterans or for purposes other than the receipt of medical care. For example, some of the existing transportation providers described by commenters regularly provide transportation services in a broader context and to a broader population of participants than permitted under section 307.

A primary reason put forth by commenters in support of mandatory coordination was that VSOs and SVSAs might use grant funds to duplicate services that already exist, and mandatory coordination would maximize efficiency of such existing programs instead of creating new, potentially redundant programs. We believe this assertion as advanced by commenters assumes that all VSOs and SVSAs seeking grant funds would not themselves already be transportation providers. However, as stated above, we know of several VSOs and SVSAs that offer transportation services, so mandatory coordination with other transportation providers would not be necessary for these grantees. In addition, commenters' insistence on mandatory coordination could apply only in areas that already receive transportation services. The rule's very restrictive population requirement for ''highly rural areas,'' however, ensures that only the most sparsely populated areas may receive grants. By virtue of their lower population rate, these areas tend to have the least developed community resources, and therefore are not likely serviced by existing transportation providers. To this point, commenters who offered examples of existing

transportation services that would be duplicated by VSOs and SVSAs did not assert that such duplication would occur in areas consisting of a county or counties with less than seven people per square mile, as required by section 307 and this rule. Instead, commenters offered many examples of merely rural but not ''highly'' rural areas where duplication would occur if VSOs and SVSAs were to provide additional transportation services via grants awarded under this rule.

It should also not be assumed that VSOs and SVSAs will merely duplicate the services of existing transportation providers because VSOs and SVSAs will be required to provide transportation for the specific, restricted purpose of increasing veteran access to medical care, and not for the more general purpose of improving the access of a community at large to services that may include medical care. Indeed, commenters who asserted that existing transportation services would be duplicated by VSOs and SVSAs did not also assert that these existing services were only for veterans and only in connection with the provision of VA medical care; rather, these commenters provided examples of existing transportation providers that transported non-veterans as well as veterans, and for purposes other than to receive medical care.

Some commenters argued that grantee coordination with existing transportation groups should be mandatory because such coordination is required under Executive Order 13330, Human Service Transportation Coordination. Executive Order 13330 mandates coordination efforts between certain Federal agencies, including VA, and community transportation systems ''to enhance access to transportation to improve mobility, employment opportunities, and access to community services for persons who are transportation-disadvantaged.'' 69 FR 9185 (Feb. 26, 2004). One commenter provided a copy of a VA Information Letter 10–2007–006, dated March 2, 2007, which states that pursuant to Executive Order 13330, VA, as part of a Federal Interagency Transportation Coordinating Council on Access and Mobility, adopted a policy statement that resolved as follows:

> Federally-assisted grantees that have significant involvement in providing resources and engage in transportation delivery should participate in a local coordinated human services transportation planning process and develop plans to achieve the objectives to reduce duplication, increase service efficiency and expand access for the transportation-disadvantaged populations as stated in Executive Order 13330.

Although we recognize the enforceability of an Executive Order as law, as well as VA's resolution to follow Executive Order 13330 as referenced above, this rulemaking is controlled by section 307, which is a separate legislative mandate to which Executive Order 13330, which establishes an interagency coordinating council on transportation issues, does not apply. Additionally, the purposes of Executive Order 13330 and section 307 are so dissimilar that Executive Order 13330 should not be interpreted as relevant to the implementation of section 307. For instance, Executive Order 13330 seeks to ''improve mobility, employment opportunities, and access to community services'' for certain persons, which is a much different scope for transportation services than to provide transportation assistance for veterans living in highly rural areas to receive VA medical care, as authorized by section 307. See Public Law 111–163, § 307(a)(3) (setting forth that grant funds are to be used to ''assist veterans in highly rural areas to travel to Department of Veterans Affairs medical centers'' and ''otherwise assist in providing transportation in connection with the provision of medical care to veterans in highly rural areas''). The population of individuals to be assisted by Executive Order 13330 is also different than the specific veteran population intended to be assisted by section 307, as Executive Order 13330 mandates coordination to support ''persons who qualify for Federally conducted or Federally assisted transportation-related programs or services due to disability, income, or advanced age.'' 69 FR 9185 (Feb. 26, 2004). Assuming for the sake of argument the applicability of Executive Order 13330 to this grant program, the Executive Order could be read to apply irrelevant criteria, requiring veteran participants to have a disability, have a lower income, or be of an advanced age. Nothing in section 307 imposes any such requirements on veteran-participants. For these reasons, we do not find Executive Order 13330 relevant to this rulemaking and do not make any changes based on these comments.

Comments Regarding Use of Grants Exclusively To Augment or Expand Existing Transportation Services

Multiple commenters noted that grant funds would be best used if they were only permitted to supplement or augment the services offered by existing transportation providers, and that grant funds should not be used to create any new transportation services. We reiterate that while coordination with existing transportation providers is encouraged, grants may only be awarded to VSOs and SVSAs, and the rule will not restrict any grantee from using grant funds to initiate transportation services in accordance with the rule's criteria.

In particular, one commenter stated that grant funds would be best used to increase the use of technology to make existing transportation services more easily accessible for veterans, and to ensure these services were provided as efficiently as possible. One example of such technology as provided by the commenter was using grant funds to establish a ''one call'' center to centralize transportation requests and dispatch transportation services of existing providers. We make no changes based on this comment. Grants may be used to supplement or expand existing technology or create new technology that assists with the delivery of transportation services, versus actually transporting veterans. We reiterate from the proposed rule that section 307 supports awarding grants for programs that may not directly transport veterans, as subsections (a)(3)(A) and (a)(3)(B) of section 307 make clear that an eligible entity may use grant funds to ''assist'' veterans to travel to obtain VA medical care, or to otherwise ''assist'' in providing transportation in connection with the provision of care to a veteran. Accordingly, the rule defines ''transportation services'' to mean ''the direct provision of transportation, or assistance with providing transportation, to travel to VA medical centers and other VA or non-VA facilities in connection with the provision of VA medical care.''

A few commenters asserted that the money that is authorized to be appropriated in subsection (d) of section 307 for VA to administer this grant program should be utilized instead to supplement or expand existing VA transportation programs. Specifically, one commenter stated that no data existed to support using funds for this grant program rather than supplementing other existing VA programs, and called on VA to use funds designated in subsection (d) of section 307 to increase fleet vehicles and staffing levels in the Veterans Transportation Service (VTS), and to supplement monetary benefits certain veterans may receive under the VA Beneficiary Travel Program. We make no changes based on these comments, as the grant program objectives have been defined by Congress and VA is not an authorized recipient of grant funds

under section 307. In response to another commenter, it is for this same reason that VA may not use funds to be appropriated under section 307 to expand transportation-specific needs in non-transportation VA programs, such as VA transitional housing programs.

Comments in Support of Using Vehicles Purchased With Grant Funds To Transport Non-veterans, or for Purposes Other Than in Connection With Receiving Medical Care.

One commenter stated that the rule should permit vehicles purchased with grant funds to be used to transport individuals, including non-veterans, in connection with activities other than receiving medical care, during the vehicle's idle time or when the vehicle has unused capacity. This commenter contended that such use of vehicles purchased with grant funds would maximize vehicle effectiveness for the benefit of a highly rural area's community at large, and further was required by Executive Order 13330.

As noted above, Executive Order 13330 does not—and should not—control our implementation of section 307. We also note, however, that under applicable regulations that govern grant agreements between VA and other entities, grantees may be required to make equipment procured with grant funds available for use on other projects. See 38 CFR 43.32(c)(2) and 38 CFR 49.34(d) (requiring grantees to make equipment acquired under a grant available for use on other projects or programs supported by the Federal government, provided such use will not interfere with the project or program for which the equipment was originally acquired). This rule already mandates this alternate use requirement for grantees, and subjects SVSAs and VSOs to all other applicable provisions in 38 CFR parts 43 and 49, in § 17.715(b)(1) and (b)(2). See § 17.715(b)(1)–(b)(2) (applying administrative grant requirements under 38 CFR part 43 to SVSAs, and requirements under 38 CFR part 49 to VSOs). The opportunity for grantees to use vehicles procured with grant funds for other programs, in line with these other controlling regulations regarding grant agreements, is therefore covered in the rule and no changes are necessary pursuant to this comment.

Although we note that other applicable regulations may permit the use of certain grantee vehicles for other programs, section 307 is clear that grant funds are to be used to ''assist veterans in highly rural areas to travel to Department of Veterans Affairs medical centers'' and ''otherwise assist in providing transportation in connection with the provision of medical care to veterans in highly rural areas.'' Public Law 111–163, sec. 307(a)(3). However, unlike Executive Order 13330, 38 CFR parts 43 and 49 are directly applicable to the grant program mandated by section 307, and as such the rule makes grantees subject to these applicable regulations.

In addition to the general comment concerning vehicles procured with grant funds, one commenter stated that the rule should specifically permit grant funds to be used to transport veterans in connection with employment activities (e.g., job seeking, commuting). We make no changes to the rule based on this comment, but reiterate that 38 CFR parts 43 and 49 permit certain equipment purchased with grants funds to be used to support other Federal programs, in line with the criteria in these other applicable regulations. To the extent such other Federal programs may be related to veteran employment activities, it is possible that vehicles procured with grants under this rule may be used as the commenter suggested, in accordance with 38 CFR parts 43 and 49.

Comment Regarding Transporting Non-veterans

In addition to comments that requested that grants be used to support existing transportation programs for the benefit of communities at large and comments related to the use of vehicles specifically for the community at large, one commenter specifically requested clarification on whether the rule permits a grantee to transport a non-veteran. We reiterate our discussion above that while we generally do not believe Congress intended these funds to be used to transport non-veterans, there may be instances where certain vehicles procured with grant funds could be used to support other Federal programs, potentially to transport non-veterans. This particular comment highlighted the fact that there is no definition of ''veteran'' in the rule. We therefore amend § 17.701 to include a definition of ''veteran'' to mean ''a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.'' This definition is consistent with 38 U.S.C. 101(2) and other VA regulations, and we believe it is commonly understood among VSOs, SVSAs, and veterans who would be seeking transportation. We also amend § 17.701 to clarify that the definitions therein apply to all of the sections establishing this grant program.

Comments Regarding the Rule's Criteria for a ''Highly Rural Area''

Multiple commenters contended that the rule's criteria regarding a ''highly rural area'' failed to account for all areas in need of transportation services, or the extent to which such areas may need transportation services. Commenters asserted that these criteria should be revised, and we address below specific suggestions for revisions. Generally, we make no changes based on these comments, as many of the suggested revisions are contrary to section 307.

A majority of commenters argued that the definition of a ''highly rural area'' was too restrictive because factors other than population density can contribute to veterans' difficulty obtaining transportation, or can create a greater need for such transportation. The factors cited by commenters included areas in which there is widespread low economic status or financial need; high concentrations of residing veterans; older age or other characteristics, such as physical disabilities, which can make accessing transportation difficult; and geographic barriers to transportation such as land formations or bodies of water. Although we do not disagree that these factors may create a need for transportation services in an area that does not meet the highly rural definition in the rule, under section 307 Congress mandated that only areas that consist of a county or counties having a population of less than seven persons per square mile may be serviced by grantees. See Public Law 111–163, sec. 307(c)(1).

Other commenters did not necessarily contend that the rule should permit VA to award grants to service areas that do not meet the definition of ''highly rural,'' but maintained that the rule's criteria did not assess the need for transportation services even among communities that meet the regulatory definition of a highly rural area. These commenters urged that certain factors such as the number of veterans in any given highly rural area, and such veterans' actual need for VA medical care, should be determinative for purposes of application scoring and awarding of grants. We interpret these comments to argue that greater weight should be given to these factors so that grants could be maximized for only those areas where the most veterans actually reside, and for those areas where the most medical need exists. We make no changes based on these comments. First, nothing in the plain language or legislative history of section 307 compels VA to prioritize awarding grants in this manner. Although it may

be argued that the most efficient use of government resources would be to focus grant awards to areas with the most concentrated need, we believe that the language of section 307 that specifically defines ''highly rural'' as fewer than seven persons per square mile seeks to ensure that any veteran in any highly rural area can receive transportation assistance to receive VA medical care, without regard to how many other veterans may be residing in the area, or the relative medical need of any other veteran. The restrictive population requirement of less than seven persons per square mile indicates that section 307 was not intended to require devotion of grant resources to areas with a high concentration of people, or a high concentration of veterans. Additionally, although section 307 requires that veterans be transported in connection with the provision of medical care, it does not specify any medical need-based criteria. Therefore, we implement section 307 in a manner that will increase access to VA medical care for any veteran in a highly rural area, without regard to that veteran's proximity to other veterans or medical need in relation to the needs of other veterans.

One commenter argued that the rule should consider the relative difficulty of establishing transportation services or transportation programs in certain highly rural areas, and factor such difficulty into the scoring criteria and the amount of grant funds awarded. The commenter stated that the current scoring criteria favored those areas where transportation services can be planned and delivered more ''easily,'' and that certain highly rural areas that are more remote or more difficult to access should be given additional scoring considerations and should receive greater funding. To the extent that the commenter believes that any highly rural area as defined in the rule is easily accessible for purposes of planning or establishing transportation services, we disagree. We believe the narrow definition of a highly rural area creates a presumption that no such qualified area is necessarily easily accessible, because the extremely sparse population requirement likely means that such an area does not have well-developed community resources, to include transportation services. In essence, we believe many of these highly rural areas will be in equivalent standing with regards to accessibility, because many of these areas do not have well-developed transportation services, and in turn are generally not easily accessible by transportation thoroughfares.

However, if certain highly rural areas may be more remote or more difficult to access than others, we believe that the rule considers such relative difficulty with planning and delivering transportation services in § 17.705(a)(4). For instance, § 17.705(a)(4) provides for up to 10 points to be awarded on a grantee application based on the innovative aspects of a program, such as the grantee's use of alternative transportation resources. This particular scoring criterion would be advantageous to any grantee that may in fact need to use non-conventional and alternative transportation methods, specifically because of an area's remoteness or difficulty to access. For instance, taking from examples provided by this commenter, if certain highly rural areas could only be accessed by planes or boats, the need for these non-conventional transportation methods (non-conventional in the context of public transportation), as stated in the application, would allow the grantee to actually score additional points over those areas that may be considered more ''easily'' accessible (i.e., already accessible by transportation thoroughfares).

The current scoring criteria do not give an undue advantage to any highly rural area over another, because any program that is well planned and proposes to provide transportation services effectively will score well. To address the portion of the comment related to the amount of grant funding an area should receive relative to how ''easily'' transportation services may be established, we assume that grantees will be requesting varying amounts up to and including the maximum $50,000 amount based on their individual program's needs. VA will not be administering $50,000 as a blanket amount for all grants. The grant application requests a detailed explanation of the program's budget and how the requested amount of funds will be sufficient to completely implement the program, as required under § 17.705(a)(1)(ii) in this rule. We do not make any changes based on this comment.

Comments Regarding the Types of Facilities to Which Veterans May Be Transported in Connection With the Receipt of Medical Care

A few commenters stated that the rule should not limit transportation services only to or from VA facilities, but should permit transportation to and from non-VA facilities that provide care for which VA contracts. We agree with commenters that necessary and preapproved care that is furnished in non-VA facilities may be essential for some veterans in certain rural areas where the nearest VA facility is inaccessible. The definition of ''transportation services'' in the rule does not limit transportation only to VA facilities, but rather indicates that the care to be received must be VA medical care. See § 17.701. However, we only referred to ''VA facilities'' in the explanatory portion of the proposed rulemaking, and we understand how this could lead the public to conclude that transportation services may be provided only to VA facilities. To clarify, our intent is to include medical care that is authorized by VA, regardless of whether it is furnished in a VA facility. Accordingly, we clarify the definition of ''transportation services'' in § 17.701 to mean ''the direct provision of transportation, or assistance with providing transportation, to travel to VA medical centers and other VA or non-VA facilities in connection with the provision of VA medical care.'' We additionally clarify that under the rule, transportation may be provided to and from any VA health care facility (such as a VA Community Based Outpatient Clinic) and is not limited to VA medical centers. Further, such facilities need not be within the same state that a veteran resides, as there is nothing in section 307 that could be interpreted to restrict transportation in this way.

We agree with the commenter that the rule can more clearly state that for purposes of this rule ''VA'' medical care includes not only that which VA provides directly but also that which VA authorizes to be furnished in non-VA facilities. Therefore, we revise the definition of the phrase ''[p]rovision of VA medical care'' in § 17.701 to include reference to sections 1703 and 8153 of title 38, United States Code, which are the statutes that permit VA to contract to furnish specified care to eligible veterans at non-VA facilities. The revision will read as follows: ''[p]rovision of VA medical care means the provision of hospital or medical services authorized under sections 1710, 1703, and 8153 of title 38, United States Code.''

One commenter requested clarification on whether grantees may provide vouchers for veterans to travel to the ''nearest health care center,'' and provided examples of VA and non-VA facilities as the nearest health care centers. We interpret this comment to be asking both about the types of facilities to which veterans may be transported, and also whether grants may be used to

administer transportation programs that provide vouchers or other types of payment directly to veterans. To address the portion of the comment related to the types of facilities to which veterans may be transported, we (1) clarified the definition of ''transportation services'' in § 17.701 to provide that under the rule medical care that VA authorizes to be furnished in non-VA facilities is also considered to be ''VA'' medical care, and (2) underscore that grantees should only provide transportation in connection with VA medical care as defined in this rule. To address the portion of the comment related to whether grants may be used to provide vouchers or other types of payment directly to veterans to pay for transportation, we make no changes to the rule, as we believe direct payment to veterans through vouchers to obtain transportation is not the intent of section 307. Vouchers or other forms of direct payment to veterans to obtain transportation services in highly rural areas would require that adequate transportation services already exist in such areas to accept payment, which we reiterate is not likely due to the very sparse population requirement imposed by section 307. Additionally, providing vouchers or other direct payment to veterans to obtain transportation would be basing transportation assistance on a veteran's relative ability to pay for transportation services generally, although section 307 does not contain any criteria related to a veteran's ability to pay for transportation—for instance, there is no income requirement in section 307.

Section 307 instead bases transportation assistance on the relative remoteness of a geographic area, and consequently assumes due to this remoteness that veterans will need assistance accessing medical care. Finally, we note that VA already assists eligible veterans with the cost of transportation associated with their obtaining VA care under VA's Beneficiary Travel Program. See 38 CFR part 70. We recognize that not all veterans are eligible for beneficiary travel benefits. However, we still make no changes to the rule because the use of grant funds for monetary travel assistance would be duplicative of existing VA programs.

We also received a comment regarding whether transportation assistance under this rule is only available to ''low-income people.'' We clarify that transportation assistance is not limited to veterans with a low income. Although we note that this rule specifically prevents a veteran from being charged for transportation assistance provided by grantees, the prohibition on veterans being charged is not based on a veteran's relative ability to pay for transportation, but rather ensures that veterans can have as much access to services provided by grantees as feasible regardless of their ability to pay. We make no changes based on this comment.

Comments Regarding the Need To Monitor Grantees and the Use of Grant Funds

Multiple commenters expressed concern that the rule must provide a means to monitor the use of grant funds and allow recoupment of such funds, as well as a means to monitor the efficacy of grantee programs, to ensure that funds are used appropriately and that veterans have adequate access to transportation services. We agree, and the rule prescribes multiple oversight mechanisms to ensure grant funds are used effectively to transport veterans in accordance with section 307. Section 17.725 as proposed required grantees to provide VA with quarterly fiscal reports on grant funds usage, and annual reports on program efficiency. These reports would provide VA with information necessary to analyze the performance of a grantee's program, and to ensure that grant funds are used appropriately and as specified in the grant agreement. VA's receipt of this and other information required to be reported in § 17.725 would indicate deficient and ineffective use of grant funds. Section 17.725(d) allows VA to request additional information, which would allow VA to conduct additional monitoring as necessary.

In response to commenters' concerns regarding the insufficiency of the monitoring criteria, however, we have revised § 17.725 to require quarterly, in addition to annual, reports to VA related to program efficacy to ensure more stringent monitoring of program efficacy and appropriate use of grant funds. We also revise the heading in § 17.725(a) so that it clearly refers to ''program efficacy reports,'' versus only an ''annual report.'' These revisions will assist VA in monitoring program effectiveness more consistently to ensure the efficient and effective use of grant funds so that veterans have access to and are satisfied with transportation services provided under this rule.

In the event that grant funds are not used in accordance with the requirements of the rule and as stated in grant agreements, § 17.730 allows VA to recover grant funds, and further prevents a grantee that misused funds from being issued a grant in the future. We believe the reporting requirements in § 17.725, in conjunction with VA's authority to recover grant funds and prevent the future awards of grants in § 17.730, create a means of monitoring grantees that ensures grant funds will be used effectively to provide veterans with access to transportation services.

One commenter objected that the proposed rule did not set forth the yearly funding limitations for this grant program as indicated in subsection (d) of section 307, and expressed concern that this lack of information in the rule was suspect, and created a risk of excess expenditures to the detriment of the program. The omission of funding limitations from the regulation text was intentional. These restrictions have no bearing on the actual amounts that are authorized to be appropriated for this program under subsection (d) of section 307. See Public Law 111–163, sec. 307(d). As stated in the proposed rule, not including the funding limitation or the limited funding years prevents this rule from appearing to be restricted or ceased beyond fiscal year 2014. Section 307 is not designated by Congress to be a pilot program, and the law does not otherwise contain a provision that it will cease to have effect after a specific date unless extended. If funding is not available to extend the program beyond 2014, we will not publish a subsequent Notice of Fund Availability in the **Federal Register** for that following fiscal year, and we will amend our regulations to remove the rule from the Code of Federal Regulations if it is clear that additional grant funds will not be provided at any future date.

Comments Regarding the Award of Only One Grant per Highly Rural Area, per Fiscal Year

One commenter objected to the criterion in § 17.702(a) that only one grant may be awarded per highly rural area to be serviced by a grantee. This commenter stated that allowing only one grantee to service a highly rural area essentially permits a grantee to monopolize the transportation services for veterans in that area, and that this creates the potential for the delivery of substandard services. We disagree, as we believe the reporting requirements and ability to recover grant funds that are authorized by §§ 17.725 and 17.730 would prevent any grantee from continuously providing poor service. We reiterate from the proposed rule that we instituted the limitation to one grant per highly rural area to ensure that as many areas are serviced as possible, for the benefit of all veterans that live in these areas across the country.

One commenter contended that grants should be awarded for more than one

year at a time, although this commenter did not provide a reason for expanding individual grants beyond a one-year duration. In response we restate from the proposed rule that grants are funded for one year to ensure that grant funds are awarded only as funding is available, in accordance with subsection (d) of section 307. See Public Law 111–163, sec. 307(d) (indicating that there is authorized to be appropriated only a limited amount of funds per fiscal year). Provided funding is available, grantees may reapply for grant funds under § 17.705(c) and (d), which permit renewal grant applications and selections for grantees to provide transportation services to veterans continuously in successive years.

Comments Related to Grantee Compliance With the Americans With Disabilities Act and Department of Transportation Regulations

One commenter noted that the rule failed to articulate the responsibilities of grantees under the Americans with Disabilities Act (ADA) and implementing Department of Transportation (DOT) regulations. We recognize that grantees and subrecipients may be subject to DOT regulations that implement certain transit requirements under the ADA, and agree with the commenter that this rule should articulate the applicability of these requirements. We revise § 17.715(a)(3), which addresses the specific responsibilities of grantees who procure or operate vehicles with grant funds, to add a new clause (v) to mandate that such vehicles be operated in accordance with applicable DOT regulations concerning transit requirements under the ADA. We note that although VA has no authority to enforce compliance with these other laws and regulations, this revision will permit VA to take action against a grantee for noncompliance with a grant agreement.

Revisions to Correct Inconsistent Use of Paragraph Headings

Paragraph (a)(2) in § 17.715 as proposed was designated by the heading ''[p]rocurement and operation of vehicles.'' A descriptive heading such as this may be used in paragraphs within regulations to emphasize or organize information, but should be used consistently to ensure clarity for the reader. However, paragraph (a)(1) of § 17.715 as proposed did not contain such a heading. Therefore, to ensure consistent use of paragraph headings in § 17.715(a), we amend § 17.715(a)(2) as proposed to remove the heading ''[p]rocurement and operation of vehicles.'' We restate that § 17.715(a)(2) as proposed is also redesignated as paragraph (a)(3) because we have added a new paragraph (a)(2) to address subrecipients. Removing the heading from § 17.715(a)(2) as proposed does not substantively affect the obligation of grantees to ensure certain conditions are met if funds are used to procure or operate vehicles. Additionally, because redesigated paragraph (a)(3) retains the phrase ''procure or operate vehicles,'' it remains very clear what type of information is contained in the paragraph.

Paragraphs (a), (b), and (c) of § 17.725 as proposed were all designated by headings; however, paragraph (d) was not so designated. Under the same rationale expressed above, we amend § 17.725(d) as proposed to add the heading ''Additional reporting.''

Revisions To Correct Non-parallel Structure

In order to establish a parallel structure between paragraphs (a)(1), (a)(2), and (a)(3) in § 17.715, we have removed the phrase ''the grantee agrees to'' in the last sentence of paragraph (a) which leads into paragraphs (a)(1), (a)(2), and (a)(3). The removal of the phrase ''the grantee agrees to'' in § 17.715(a) will have no substantive effect on any of the further obligations under the proceeding paragraphs under § 17.715(a). We also revise the beginning of paragraph (a)(1) in § 17.715 as proposed to add the phrase ''[t]he grantee must,'' so that the subject of § 17.715(a)(1) remains the grantee.

Paragraphs (a)(1) through (a)(2) of § 17.715 as proposed were intended to be items in a series, in the same part of speech or the same type of phrase, and therefore should have been drafted in parallel structure. To reiterate, proposed § 17.715(a)(2) is redesignated in this rule as § 17.715(a)(3). To maintain parallel structure in the rule, we revise redesignated § 17.715(a)(3) to make sense with revised § 17.715(a), and to be parallel with new § 17.715(a)(2), so that it is clear that each paragraph under § 17.715(a) consistently and clearly refers to obligations of a grantee or subrecipient. Redesignated § 17.715(a)(3) will require that ''[i]f a grantee's application identified that funds will be used to procure or operate vehicles to directly provide transportation services,'' certain specified requirements must be met. The listed requirements are set forth in § 17.715(a)(3)(i) through (v). To maintain parallel structure, we also revise paragraphs (ii) and (iv) of redesignated § 17.715(a)(3) to consistently use the word ''must'' instead of the words ''shall'' and ''will,'' respectively.

Non-significant Changes to §§ 17.700, 17.701, and 17.703

Section 17.700 as proposed stated that ''[t]his section establishes the Grants for Veterans Service Organizations for Transportation of Veterans in Highly Rural Areas program,'' which misidentified VSOs as the only entities for which grants would be administered. We revise § 17.700 to remove the phrase ''for Veterans Service Organizations.'' This is not a significant change because the proposed rule was clear that grants could be administered to both VSOs and SVSAs in accordance with section 307.

Sections 17.701 and 17.703 mistakenly pluralized VSOs and SVSAs when describing them within the meaning of the singular subject ''eligible entity.'' We revise §§ 17.701 and 17.703 to refer to ''[a] Veterans Service Organization'' and ''[a] State veterans service agency'' with no substantive change. We note that more than one single VSO and one single SVSA may receive a grant under this program per year, as contemplated in and consistent with the proposed rule.

We also clarified the authority citations for the regulations in this rulemaking by specifying section 307 of Public Law 111–163.

For all the reasons noted above, VA is adopting the rule as final with changes as noted to §§ 17.701, 17.703, 17.705, 17.715, and 17.725.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. According to the 1995 amendments to the Paperwork Reduction Act, an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid Office of Management and Budget (OMB) control number.

This final rule will impose new information collection requirements in the form of an application to receive grant funds, and reporting requirements to retain grant funds to include surveys for completion by veteran participants. On December 30, 2011, in a proposed rule published in the **Federal Register**, we requested public comments on the new collections of information. We received one comment in response to this notice, which advocated that VA should enforce more stringent monitoring of program efficacy and appropriate use of grant funds. The response, as also stated in the preamble to this final rule, is that we agree and have increased the frequency of efficacy reporting requirements in § 17.725(a) to be quarterly, as well as annually. As required by the Paperwork Reduction Act of 1995, VA has submitted these information collections to OMB for its review. OMB approved these new information collection requirements associated with the final rule and assigned OMB control numbers 2900–0790, and 2900–0770

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule 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. We do not believe that many small entities such as independently owned taxi cab services or other small transportation businesses frequently or routinely access highly rural areas as defined in the rule, or that such access is often for the express purpose of transporting veterans to VA medical centers or transporting veterans in connection with receiving VA medical care. We believe that veterans in these highly rural areas who must pay for transportation services to receive medical care would seek more conveniently located non-VA care, versus VA care that may require traveling greater distances. There will be no economic impact on any of the eligible entities, as they are not required to provide matching funds to obtain a grant as stated in section 307. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the 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 effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action'' requiring review by OMB as ''any 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 this Executive Order.''

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

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 the 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 one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.009, Veterans Medical Care Benefits; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; and 64.035, Veterans Transportation Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. John R. Gingrich, Chief of Staff, Department of Veterans Affairs, approved this document on January 28, 2013, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Medical devices, Mental health programs, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Dated: March 28, 2013.

Robert C. McFetridge,

Director of Regulations Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, VA amends 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

■ 2. Amend part 17 by adding the undesignated center heading ''GRANTS FOR TRANSPORTATION OF VETERANS IN HIGHLY RURAL AREAS'' and §§ 17.700 through 17.730 to read as follows:

GRANTS FOR TRANSPORTATION OF VETERANS IN HIGHLY RURAL AREAS

Sec.

(Authority: Sec. 307, Pub. L. 111–163; 38 U.S.C. 501 and as noted in specific sections)

§ 17.700 Purpose and scope.

This section establishes the Grants for Transportation of Veterans in Highly Rural Areas program. Under this program, the Department of Veterans Affairs (VA) provides grants to eligible entities to assist veterans in highly rural areas through innovative transportation services to travel to VA medical centers,

and to otherwise assist in providing transportation services in connection with the provision of VA medical care to these veterans.

(Authority: Sec. 307, Pub. L. 111–163; 38 U.S.C. 501)

§ 17.701 Definitions.

For the purposes of §§ 17.700–17.730 and any Notice of Fund Availability issued pursuant to such sections:

Applicant means an eligible entity that submits an application for a grant announced in a Notice of Fund Availability.

Eligible entity means:

(1) A Veterans Service Organization, or

(2) A State veterans service agency.

Grantee means an applicant that is awarded a grant under this section.

Highly rural area means an area consisting of a county or counties having a population of less than seven persons per square mile.

Notice of Fund Availability means a Notice of Fund Availability published in the **Federal Register** in accordance with § 17.710.

Participant means a veteran in a highly rural area who is receiving transportation services from a grantee.

Provision of VA medical care means the provision of hospital or medical services authorized under sections 1710, 1703, and 8153 of title 38, United States Code.

State veterans service agency means the element of a State government that has responsibility for programs and activities of that government relating to veterans benefits.

Subrecipient means an entity that receives grant funds from a grantee to perform work for the grantee in the administration of all or part of the grantee's program.

Transportation services means the direct provision of transportation, or assistance with providing transportation, to travel to VA medical centers and other VA or non-VA facilities in connection with the provision of VA medical care.

Veteran means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

Veterans Service Organization means an organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code.

(Authority: Sec. 307, Pub. L. 111–163; 38 U.S.C. 501)

§ 17.702 Grants—general.

(a) *One grant per highly rural area.* VA may award one grant per fiscal year to a grantee for each highly rural area in which the grantee provides transportation services. Transportation services may not be simultaneously provided by more than one grantee in any single highly rural area.

(b) *Maximum amount.* Grant amounts will be specified in the Notice of Funding Availability, but no grant will exceed $50,000.

(c) *No matching requirement.* A grantee will not be required to provide matching funds as a condition of receiving such grant.

(d) *Veterans will not be charged.* Transportation services provided to veterans through utilization of a grant will be free of charge.

(Authority: Sec. 307, Pub. L. 111–163; 38 U.S.C. 501)

§ 17.703 Eligibility and application.

(a) *Eligible entity.* The following may be awarded a grant:

(1) A Veterans Service Organization.

(2) A State veterans service agency.

(b) *Initial application.* To apply for an initial grant, an applicant must submit to VA a complete grant application package, as described in the Notice of Fund Availability.

(c) *Renewal application.* Grantees may apply for one renewal grant per fiscal year, after receiving an initial grant, if the grantee's program will remain substantially the same. The grantee must submit to VA a complete renewal application as described in the Notice of Fund Availability.

(d) *Subrecipients.* Grantees may provide grant funds to other entities, if such entities are identified as subrecipients in grant applications to perform work for grantees in the administration of all or part of grantees' programs.

(Authority: Sec. 307, Pub. L. 111–163; 38 U.S.C. 501)

(The Office of Management and Budget has approved the information collection requirement in this section under control number 2900–0790)

§ 17.705 Scoring criteria and selection.

(a) *Initial grant scoring.* Applications will be scored using the following selection criteria:

(1) VA will award up to 40 points based on the program's plan for successful implementation, as demonstrated by the following:

(i) Program scope is defined, and applicant has specifically indicated the mode(s) or method(s) of transportation services to be provided by the applicant or identified subrecipient.

(ii) Program budget is defined, and applicant has indicated that grant funds will be sufficient to completely implement the program.

(iii) Program staffing plan is defined, and applicant has indicated that there will be adequate staffing for delivery of transportation services according to the program's scope.

(iv) Program timeframe for implementation is defined, and applicant has indicated that the delivery of transportation services will be timely.

(2) VA will award up to 30 points based on the program's evaluation plan, as demonstrated by the following:

(i) Measurable goals for determining the success of delivery of transportation services.

(ii) Ongoing assessment of paragraph (a)(2)(i), with a means of adjusting the program as required.

(3) VA will award up to 20 points based on the applicant's community relationships in the areas to receive transportation services, as demonstrated by the following:

(i) Applicant has existing relationships with state or local agencies or private entities, or will develop such relationships, and has shown these relationships will enhance the program's effectiveness.

(ii) Applicant has established past working relationships with state or local agencies or private entities which have provided transportation services similar to those offered by the program.

(4) VA will award up to 10 points based on the innovative aspects of the program, as demonstrated by the following:

(i) How program will identify and serve veterans who otherwise would be unable to obtain VA medical care through conventional transportation resources.

(ii) How program will use new or alternative transportation resources.

(b) *Initial grant selection.* VA will use the following process to award initial grants:

(1) VA will rank those applications that receive at least the minimum amount of total points and points per category set forth in the Notice of Fund Availability. The applications will be ranked in order from highest to lowest scores.

(2) VA will use the applications' ranking as the basis for awarding grants. VA will award grants for the highest ranked applications for which funding is available.

(c) *Renewal grant scoring.* Renewal applications will be scored using the following selection criteria:

(1) VA will award up to 55 points based on the success of the grantee's program, as demonstrated by the following:

(i) Application shows that the grantee or identified subrecipient provided transportation services which allowed participants to be provided medical care timely and as scheduled.

(ii) Application shows that participants were satisfied with the transportation services provided by the grantee or identified subrecipient, as described in the Notice of Fund Availability.

(2) VA will award up to 35 points based on the cost effectiveness of the program, as demonstrated by the following:

(i) The grantee or identified subrecipient administered the program on budget.

(ii) Grant funds were utilized in a sensible manner, as interpreted by information provided by the grantee to VA under § 17.725(a)(1) through (a)(7).

(3) VA will award up to 15 points based on the extent to which the program complied with:

(i) The grant agreement.

(ii) Applicable laws and regulations.

(d) *Renewal grant selection.* VA will use the following process to award renewal grants:

(1) VA will rank those applications that receive at least the minimum amount of total points and points per category set forth in the Notice of Fund Availability. The applications will be ranked in order from highest to lowest scores.

(2) VA will use the applications' ranking as the basis for awarding grants. VA will award grants for the highest ranked applications for which funding is available.

(Authority: Sec. 307, Pub. L. 111–163; 38 U.S.C. 501)

§ 17.710 Notice of Fund Availability.

When funds are available for grants, VA will publish a Notice of Fund Availability in the **Federal Register**. The notice will identify:

(a) The location for obtaining grant applications;

(b) The date, time, and place for submitting completed grant applications;

(c) The estimated amount and type of grant funding available;

(d) The length of term for the grant award;

(e) The minimum number of total points and points per category that an applicant or grantee must receive in order for a supportive grant to be funded;

(f) The timeframes and manner for payments under the grant; and

(g) Those areas identified by VA to be the ''highly rural areas'' in which grantees may provide transportation services funded under this rule.

(Authority: Sec. 307, Pub. L. 111–163; 38 U.S.C. 501)

§ 17.715 Grant agreements.

(a) *General.* After a grantee is awarded a grant in accordance with § 17.705(b) or § 17.705(d), VA will draft a grant agreement to be executed by VA and the grantee. Upon execution of the grant agreement, VA will obligate the approved amount to the grantee. The grant agreement will provide that:

(1) The grantee must operate the program in accordance with the provisions of this section and the grant application.

(2) If a grantee's application identified a subrecipient, such subrecipient must operate the program in accordance with the provisions of this section and the grant application.

(3) If a grantee's application identified that funds will be used to procure or operate vehicles to directly provide transportation services, the following requirements must be met:

(i) Title to the vehicles must vest solely in the grantee or identified subrecipient, or with leased vehicles in an identified lender.

(ii) The grantee or identified subrecipient must, at a minimum, provide motor vehicle liability insurance for the vehicles to the same extent they would insure vehicles procured with their own funds.

(iii) All vehicle operators must be licensed in a U.S. State or Territory to operate such vehicles.

(iv) Vehicles must be safe and maintained in accordance with the manufacturer's recommendations.

(v) Vehicles must be operated in accordance with applicable Department of Transportation regulations concerning transit requirements under the Americans with Disabilities Act.

(b) *Additional requirements.* Grantees and identified subrecipients are subject to the following additional requirements:

(1) State veterans service agencies and identified subrecipients in the grant agreement are subject to the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments under 38 CFR part 43, as well as to OMB Circular A–87, Cost Principles for State, Local, and Indian Tribal Governments, and 2 CFR parts 25 and 170, if applicable.

(2) Veterans Service Organizations and identified subrecipients in the grant agreement are subject to the Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations under 38 CFR part 49, as well as to OMB Circular A–122, Cost Principles for Non-Profit Organizations, codified at 2 CFR part 230, and 2 CFR parts 25 and 170, if applicable.

(Authority: Sec. 307, Pub. L. 111–163; 38 U.S.C. 501)

§ 17.720 Payments under the grant.

Grantees are to be paid in accordance with the timeframes and manner set forth in the Notice of Fund Availability.

(Authority: Sec. 307, Pub. L. 111–163; 38 U.S.C. 501)

§ 17.725 Grantee reporting requirements.

(a) *Program efficacy.* All grantees who receive either an initial or renewed grant must submit to VA quarterly and annual reports which indicate the following information:

(1) Record of time expended assisting with the provision of transportation services.

(2) Record of grant funds expended assisting with the provision of transportation services.

(3) Trips completed.

(4) Total distance covered.

(5) Veterans served.

(6) Locations which received transportation services.

(7) Results of veteran satisfaction survey.

(b) *Quarterly fiscal report.* All grantees who receive either an initial or renewal grant must submit to VA a quarterly report which identifies the expenditures of the funds which VA authorized and obligated.

(c) *Program variations.* Any changes in a grantee's program activities which result in deviations from the grant agreement must be reported to VA.

(d) *Additional reporting.* Additional reporting requirements may be requested by VA to allow VA to fully assess program effectiveness.

(Authority: Sec. 307, Pub. L. 111–163; 38 U.S.C. 501)

(The Office of Management and Budget has approved the information collection requirements in this section under control numbers 2900–0709 and 2900–0770)

§ 17.730 Recovery of funds by VA.

(a) *Recovery of funds.* VA may recover from the grantee any funds that are not used in accordance with a grant agreement. If VA decides to recover funds, VA will issue to the grantee a notice of intent to recover grant funds, and grantee will then have 30 days to submit documentation demonstrating why the grant funds should not be recovered. After review of all submitted documentation, VA will determine whether action will be taken to recover the grant funds.

(b) *Prohibition of further grants.* When VA determines action will be taken to recover grant funds from the grantee, the grantee is then prohibited from receipt of any further grant funds.

(Authority: Sec. 307, Pub. L. 111–163; 38 U.S.C. 501)

[FR Doc. 2013–07636 Filed 4–1–13; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2012–0639; FRL–9795–4]

Approval and Promulgation of Air Quality Implementation Plans; Arkansas; Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action to approve two revisions to the Arkansas State Implementation Plan (SIP) submitted by the Arkansas Department of Environmental Quality (ADEQ) to EPA on February 17, 2010, and November 6, 2012. The February 17, 2010, SIP revision to the Arkansas New Source Review (NSR) Prevention of Significant Deterioration (PSD) program updates the Arkansas SIP to incorporate by reference (IBR) requirements for the federal PSD permitting program under EPA's November 29, 2005 Phase 2 8-hour Ozone Implementation rule. The November 6, 2012, SIP revision to the Arkansas NSR PSD program provides the state of Arkansas with the authority to issue PSD permits governing greenhouse gas (GHG) emissions and establishes appropriate emission thresholds for determining which new stationary sources and modifications to existing stationary sources become subject to Arkansas's PSD permitting requirements for their GHG emissions. The November 6, 2012 SIP revision also defers until July 21, 2014, application of the PSD permitting requirements to biogenic carbon dioxide emissions from bioenergy and other biogenic stationary sources. EPA is approving the February 17, 2010, and November 6, 2012, SIP revisions to the Arkansas NSR PSD permitting program as consistent with federal requirements for PSD permitting. As a result of this approval, EPA is rescinding the GHG PSD Federal Implementation Plan (FIP) for Arkansas that was put in place on December 30, 2010, to ensure the availability of a permitting authority for GHG permitting in Arkansas. EPA is finalizing this action under section 110 and part C of the Act.

DATES: This final rule will be effective May 2, 2013.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2012–0639. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information the disclosure of which 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 *http://www.regulations.gov* or in hard copy at the Air Permits Section (6PD–R), 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. A 15 cent per page fee will be charged for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area on the seventh floor at 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

The State submittals related to this SIP revision, and which are part of the EPA docket, are also available for public inspection at the Local Air Agency listed below during official business hours by appointment: Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72118–5317.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Miller (6PD–R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD–R), Suite 1200, Dallas, TX 75202–2733. The telephone number is (214) 665–7550. Mr. Miller can also be reached via electronic mail at *miller.michael@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. What is the background for this action?

The background for today's final rule and the EPA's national actions pertaining to GHGs is discussed in detail in our January 11, 2013 proposal (see 78 FR 2354). The comment period was open for thirty days and no comments were received.

II. What final action is EPA taking?

We are approving Arkansas's February 17, 2010 SIP submittal, which updates the Arkansas SIP to incorporate by reference (IBR) requirements for the federal PSD permitting program under EPA's November 29, 2005 Phase 2 8-hour Ozone Implementation rule.

We are also approving Arkansas's November 6, 2012, SIP submittal, relating to PSD permitting requirements for GHG-emitting sources in Arkansas. Specifically, the SIP revision provides the state of Arkansas with the authority to issue PSD permits governing greenhouse gas (GHG) emissions and establishes appropriate emission thresholds for determining which new stationary sources and modifications to existing stationary sources become subject to Arkansas's PSD permitting requirements for their GHG emissions. The November 6, 2012, SIP revision also defers until July 21, 2014, application of the PSD permitting requirements to biogenic carbon dioxide emissions from bioenergy and other biogenic stationary sources.

EPA has made the determination that the February 17, 2010, and November 6, 2012, revisions to the Arkansas SIP for PSD permitting are approvable because the revisions were adopted and submitted as SIP revisions in accordance with the CAA and EPA regulations regarding PSD permitting for 8-hour ozone and GHGs. We are taking this final action today under section 110 and part C of the Act.

As explained in our January 11, 2013 proposal (see 78 FR 2354), as a result of today's action we are also rescinding the GHG PSD FIP for Arkansas at 40 CFR 52.37(b)(2). Therefore, as of the effective date of this final rule, the EPA will no longer be the PSD permitting authority for GHG-emitting sources in Arkansas.

III. Statutory and Executive Order Reviews

A. Executive Order 12866—Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of