

## Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

## Federalism

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

## Environmental Assessment

The Coast Guard has considered the environmental impact of this regulation and concluded that under section 2.B.2. of Commandant Instruction M16475.1C it will have no significant environmental impact and it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and an Environmental Analysis checklist is available for inspection and copying in the docket to be maintained at the address listed in **ADDRESSES** in the preamble.

## Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of \$100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected.

No state, local, or tribal government entities will be effected by this rule, so this rule will not result in annual or aggregate costs of \$100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

## List of Subjects in 33 CFR Part 165

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

## Regulation

In consideration of the foregoing, Subpart F of Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for 33 CFR Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. A new § 165.T11-052 is added to read as follows:

### § 165.T11-052 Safety Zone; Santa Barbara Channel, CA.

(a) *Location.* The safety zone will encompass a water area extending 500 yard in all directions from the center of the Seaciff pier complex in the Santa Barbara Channel, which is situated at approximately 34° - 21.02' N, 119° - 25.46' W. All coordinates in this paragraph use Datum: NAD 83.

(b) *Effective Date.* This section will be in effect from 7 a.m. PDT on April 14, 1998 until 7 p.m. PST on January 3, 1999.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this Part, entry into, transit through, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port.

Dated: April 13, 1998.

**G.P. Wright,**

*Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach, CA.*

[FR Doc. 98-11229 Filed 4-29-98; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 47

RIN 2900-A178

### Reporting Health Care Professionals to State Licensing Boards

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** It continues to be the policy of the Department of Veterans Affairs (VA) to report to State Licensing Boards any separated physician, dentist, or other licensed health care professional whose clinical practice so significantly failed to meet generally accepted standards of clinical practice as to raise reasonable concern for the safety of patients. This document provides that, in addition, VA will report to State Licensing Boards any currently employed physician, dentist, or other licensed health care professional (one who is on VA rolls) whose clinical practice so significantly failed to meet generally accepted standards of clinical practice during VA employment as to raise reasonable concern for the safety of patients. Some health care professionals who are VA employees also provide health care outside VA's jurisdiction.

Accordingly, the reporting of currently employed licensed health care professionals who meet the standard for reporting is necessary so that State Licensing Boards can take action as appropriate to protect the public. Examples of actions that meet the criteria for reporting are set forth in the text portion of this rulemaking. Also, nonsubstantive changes are made for purposes of clarity.

**DATES:** Effective Date: June 1, 1998.

#### FOR FURTHER INFORMATION CONTACT:

Ruth-Ann Phelps, Ph.D., Veterans Health Administration, Patient Care Services (11B), Department of Veterans Affairs, 810 Vermont Ave. NW, Washington, DC 20420, at (202) 273-8473 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on October 8, 1997 (62 FR 52519), we proposed to expand our policy of reporting to State Licensing Boards to include any currently employed physician, dentist, or other licensed health care professional (one who is on VA rolls) whose clinical practice so significantly failed to meet generally accepted standards of clinical practice during VA employment as to raise reasonable concern for the safety of patients. Previously, the regulations only allowed the VA to report separated employees. The comment period ended on December 8, 1997. We received one comment.

The regulations, among other things, provide that VA will report individuals to State Licensing Boards for "substance abuse when it affects the individual's ability to perform appropriately as a health care provider or in the patient care environment." The commenter asserted that individuals should be reported for any substance abuse that is identified, and that any reporting should include a recommendation that the individual be required to obtain assistance at a substance abuse rehabilitation program.

No changes are made based on this comment. The provisions of Section 204 of Public Law 99-166 set forth the basic authority for reporting separated individuals to State Licensing Boards. This Statutory authority to report separated individuals to State Licensing Boards is limited to reporting based on a finding concerning an individual's clinical competence. We believe the policy for reporting should be the same for separated and currently employed individuals. Therefore, the final rule provides for reporting only if the finding of substance abuse reflects a finding that the clinical practice of the individual so significantly failed to meet generally

accepted standards of clinical practice during VA employment as to raise reasonable concern for the safety of patients. Even so, it would seem that in almost every case in which substance abuse is found, we would also be able to determine that it affects the individual's ability to perform appropriately as a health care provider in the patient care environment. Further, currently employed individuals who are identified as substance abusers are always encouraged by VA to obtain rehabilitation assistance, and there is no need to make a special recommendation to State Licensing Boards since we are aware that State Licensing Boards routinely provide similar encouragement.

#### Executive Order 12866

This rule has been reviewed by OMB under Executive Order 12866.

#### 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. The rule will affect only individuals and will not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

There are no applicable Catalog of Federal Domestic Assistance program numbers.

#### List of Subjects in 38 CFR Part 47

Health professions.

Approved: April 22, 1998.

**Togo D. West, Jr.,**  
Acting Secretary.

For the reasons set forth in the preamble, 38 CFR part 47 is amended as follows:

#### PART 47—POLICY REGARDING REPORTING HEALTH CARE PROFESSIONALS TO STATE LICENSING BOARDS

1. The authority citation for part 47 continues to read as follows:

**Authority:** Pub. L. 99-166, 99 Stat. 941; 38 U.S.C. 501.

2. The part heading for part 47 is revised to read as shown above.

3. In part 47, both subpart A and subpart B headings are removed.

4. In § 47.1, paragraph (a) is removed; paragraphs (b) through (h) are redesignated as paragraphs (a) through (g), respectively; new paragraphs (h) and (i) are added, and the authority citation is revised, to read as follows:

#### § 47.1 Definitions.

\* \* \* \* \*

(h) *Currently employed licensed health care professional* means a licensed health care professional who is on VA rolls.

(i) *On VA rolls* means on VA rolls, regardless of the status of the professional, such as full-time, part-time, contract service, fee-basis, or without compensation.

**(Authority:** 38 U.S.C. 501, 7401-7405; Section 204(b) of Pub. L. 99-166, 99 Stat. 952-953; Pub. L. 99-660, 100 Stat. 3743.)

#### § 47.2 [Removed]

5. Section 47.2 is removed.

#### § 47.3 [Redesignated as § 47.2]

6. Section 47.3 is redesignated as § 47.2.

7. The newly redesignated § 47.2 is revised to read as follows:

#### § 47.2 Reporting to State Licensing Boards.

It is the policy of VA to report to State Licensing Boards any currently employed licensed health care professional whose clinical practice during VA employment so significantly failed to meet generally accepted standards of clinical practice as to raise reasonable concern for the safety of patients. The following are examples of actions that meet the criteria for reporting:

(a) Significant deficiencies in clinical practice such as lack of diagnostic or treatment capability; errors in transcribing, administering or documenting medication; inability to perform clinical procedures considered basic to the performance of one's occupation; performing procedures not included in one's clinical privileges in other than emergency situations;

(b) Patient neglect or abandonment;

(c) Mental health impairment sufficient to cause the individual to behave inappropriately in the patient care environment;

(d) Physical health impairment sufficient to cause the individual to provide unsafe patient care;

(e) Substance abuse when it affects the individual's ability to perform appropriately as a health care provider or in the patient care environment;

(f) Falsification of credentials;

(g) Falsification of medical records or prescriptions;

(h) Theft of drugs;

(i) Inappropriate dispensing of drugs;

(j) Unethical behavior or moral turpitude;

(k) Mental, physical, sexual, or verbal abuse of a patient (examples of patient

abuse include intentional omission of care, willful violation of a patient's privacy, willful physical injury, intimidation, harassment, or ridicule); and

(l) Violation of research ethics.

**(Authority:** 38 U.S.C. 501; 7401-7405; Section 204(b) of Pub. L. 99-166, 99 Stat. 952-953; Pub. L. 99-660, 100 Stat. 3743.)

[FR Doc. 98-11466 Filed 4-29-98; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region II Docket No. NY25-2-173b, FRL-5995-4]

### Approval and Promulgation of Implementation Plans; New York State Implementation Plan Revision

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the New York State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds. The SIP revision consists of amendments to the New York Code of Rules and Regulations. This revision was submitted to comply with the gasoline vapor recovery provisions for gasoline service stations in the Clean Air Act (the Act). The intended effect of this action is to approve a program required by the Act which will result in emission reductions that will help achieve attainment of the national ambient air quality standard (NAAQS) for ozone.

**DATES:** This rule is effective on June 29, 1998 unless relevant adverse comments are received by June 1, 1998. If EPA receives relevant adverse comments, a timely withdrawal will be published in the **Federal Register**.

**ADDRESSES:** All comments should be addressed to: Ronald J. Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.

Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,  
Region II Office, Air Programs Branch,  
290 Broadway, 25th Floor, New York,  
New York 10007-1866