

36 CFR Part 1004

Bicycles, National parks, Public lands, Recreation and recreation areas, Traffic regulations.

36 CFR Part 1005

Alcohol and alcoholic beverages, Business and industry, Civil rights, Equal employment opportunity, National parks.

Karen A. Cook, General Counsel.

Accordingly, the interim final rule amending 36 CFR parts 1001, 1002, 1004, and 1005, which was published at 63 FR 35694 on June 30, 1998, is adopted as final with the following changes:

PART 1002—RESOURCE PROTECTION, PUBLIC USE AND RECREATION

1. The authority citation for part 1002 continues to read as follows:

Authority: Pub. L. 104-333, 110 Stat. 4097 (16 U.S.C. 460bb note).

2. Amend § 1002.21 by revising paragraph (a) to read as follows:

§ 1002.21 Smoking.

(a) The Board may designate a portion of the area administered by the Presidio Trust, or all or a portion of a building, structure or facility as closed to smoking when necessary to protect resources, reduce the risk of fire, or prevent conflicts among visitor use activities. Smoking in an area or location so designated is prohibited.

\* \* \* \* \*

3. Amend § 1002.22 by revising paragraph (a)(2) to read as follows:

§ 1002.22 Property.

(a) \* \* \* (2) Leaving property unattended for longer than 24 hours, except in locations where longer time periods have been designated or in accordance with conditions established by the Board.

\* \* \* \* \*

4. Amend § 1002.50 by revising paragraph (a) to read as follows:

§ 1002.50 Special events.

(a) Sports events, pageants, regattas, public spectator attractions, entertainments, ceremonies, and similar events are allowed: Provided, however, There is a meaningful association between the area administered by the Presidio Trust and the events, and the observance contributes to visitor understanding of the significance of the area administered by the Presidio Trust,

and a permit therefor has been issued by the Executive Director. A permit shall be denied if such activities would:

- (1) Cause injury or damage to resources of the area administered by the Presidio Trust; or
(2) Be contrary to the purposes of the Presidio Trust Act; or
(3) Unreasonably interfere with interpretive, visitor service, or other program activities, or with the administrative activities of the Presidio Trust or the National Park Service; or
(4) Substantially impair the operation of public use facilities or services of Presidio Trust concessioners or contractors; or
(5) Present a clear and present danger to the public health and safety; or
(6) Result in significant conflict with other existing uses.

\* \* \* \* \*

5. Amend § 1002.51 by revising paragraph (a) to read as follows:

§ 1002.51 Public assemblies, meetings.

(a) Public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views are allowed within the area administered by the Presidio Trust, provided a permit therefor has been issued by the Executive Director.

\* \* \* \* \*

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Part 2522

RIN 3045-AA46

AmeriCorps Grant Applications From Professional Corps

ACTION: Direct final rule; request for comments.

SUMMARY: This direct final action amends title 45 Code of Federal Regulations, part 2522.240(b)(2), to remove the restriction on certain professional corps programs from applying through State Commissions for AmeriCorps State competitive funds. The amendment realigns the regulations with the authorizing statutory language.

DATES: The direct final rule is effective May 1, 2006, without further notice, unless the Corporation receives adverse written comments by April 3, 2006. If the Corporation receives any adverse comments, we will publish a timely withdrawal in the Federal Register indicating that we are withdrawing the amendment due to adverse comments.

ADDRESSES: You may mail or deliver your comments to Nicola Goren, Associate General Counsel, Corporation for National and Community Service, 1201 New York Avenue, NW., Room 10611, Washington, DC 20525. You may also send your comments by facsimile transmission to (202) 606-3467, or send them electronically to professionalcorpscomments@cns.gov or through the Federal Government's one-stop rulemaking Web site at http://www.regulations.gov. Members of the public may review copies of all communications received on this rulemaking at the Corporation's Washington DC headquarters.

During and after the comment period, you may inspect all public comments about this rule in suite 10600, 1201 New York Avenue, NW., Washington, DC, between the hours of 9 a.m. and 4:30 p.m., eastern time, Monday through Friday of each week except Federal holidays.

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this rule. If you want to schedule an appointment for this type of aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

FOR FURTHER INFORMATION CONTACT: Nicola Goren, Associate General Counsel, Corporation for National and Community Service, (202) 606-6676, T.D.D. (202) 606-3472. Persons with visual impairments may request this rule in an alternative format.

SUPPLEMENTARY INFORMATION:

I. Background

The National and Community Service Act of 1990 sets a maximum allowable living allowance for full-time AmeriCorps programs, but provides an exception to that maximum for certain professional corps programs. Specifically, section 140(c) allows professional corps to provide a living allowance in excess of the statutory maximum if the professional corps meets several conditions. At issue for purposes of this rule is the statutory requirement that, to be allowed to provide a living allowance in excess of the maximum, the applicant professional corps may apply for AmeriCorps funds only "by submitting an application to the Corporation for assistance on a competitive basis." In essence, this means that, under the statute, professional corps programs wishing to provide a living allowance in

excess of the maximum allowable living allowance may apply for State competitive funds through a State commission, or directly to the Corporation as part of a National Direct or National Professional Corps program, or any other National program, including Direct programs for States or Territories without a State commission. Such a professional corps may not apply for funds through a State commission's formula application process.

When the Corporation published regulations implementing the AmeriCorps program in 1994, the regulatory provision implementing this statutory exception went further than the statute requires by requiring professional corps programs seeking an exemption from the maximum living allowance to apply only directly to the Corporation. This excluded those professional corps programs wishing to provide a living allowance in excess of the maximum from applying for State competitive funding.

In July 2005, the Corporation published a final AmeriCorps rule which, among other things, reinforced the Corporation's commitment to professional corps and low-cost AmeriCorps programs, and encouraged States to include them in their portfolios as a way to reduce costs. At the time we issued that rule, we did not include an amendment to this pre-existing regulatory provision. This amendment brings the Corporation's regulations into alignment with the authorizing statute and the Corporation's support for professional corps programs.

## II. Final Action and Comments

The Corporation is issuing the amendment as a direct final rule, without prior proposal, under the good cause exception for notice and public procedure under the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)), because we view the revision as non-controversial and anticipate no adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal to amend 45 CFR 2522.240(b)(2) if adverse comments are filed. This direct final rule will be effective May 1, 2006, without further notice, unless the Corporation receives adverse comments by April 3, 2006.

If the Corporation receives adverse comments, the Corporation will publish a document withdrawing the final rule and informing the public that the rule will not take effect. The Corporation will then address public comments received in a subsequent final rule based on the proposed rule. The

Corporation will not institute a second comment period. Any one interested in commenting should do so at this time. If the Corporation receives no adverse comments, this rule will be effective on May 1, 2006, and no further action will be taken on the proposed rule.

## III. Statutory and Executive Order Reviews

### *Executive Order 12866*

The Corporation has determined that this direct final rule, while a significant regulatory action, is not an "economically significant" rule within the meaning of E.O. 12866 because it is not likely to result in: (1) An annual effect on the economy of \$100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866. As a "significant" regulatory action, this rule was reviewed by the Office of Management and Budget (OMB).

### *Regulatory Flexibility Act*

The Corporation has determined that this regulatory action, if promulgated, will not result in a significant impact on a substantial number of small entities. Therefore, the Corporation has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for major rules that are expected to have such results.

### *Other Impact Analyses*

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in either Federal, State, local, or tribal governments in the aggregate, or impose an annual burden exceeding \$100 million on the private sector.

The direct final rule amendment does not have federalism implications. It will

not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive 13132.

The direct final rule does not have tribal implications as specified in Executive Order 13175. The rule will not have a substantial direct effect on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### List of Subjects in 45 CFR Part 2522

Grant programs-social programs, Reporting and recordkeeping requirements, Volunteers.

■ For the reasons stated in the preamble, the Corporation for National and Community Service amends chapter XXV, title 45 of the Code of Federal Regulations as follows:

### PART 2522—AMERICORPS PARTICIPANTS, PROGRAMS, AND APPLICANTS

■ 1. The authority citation for part 2522 continues to read as follows:

**Authority:** 42 U.S.C. 12571–12595.

■ 2. Amend § 2522.240 by revising paragraph (b)(2)(ii) to read as follows:

#### § 2522.240 What financial benefits do AmeriCorps participants serving in approved AmeriCorps positions receive?

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) The program must be operated directly by the applicant, selected on a competitive basis by submitting an application to the Corporation, and may not be included in a State's application for AmeriCorps program funds distributed by formula under § 2521.30(a)(2) of this chapter.

\* \* \* \* \*

Dated: February 24, 2006.

**Frank R. Trinity,**  
General Counsel.

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