

age. The FAA accordingly amended 14 CFR part 65 to add Special Federal Aviation Regulation (SFAR) No. 103 (70 FR 1634), effective January 7, 2005, and requested public comments by February 7, 2005.

Discussion of Comments

The docket received comments from 16 individuals. Many of the commenters essentially took issue with the “exceptional skills and experience” standard that will be used by the Administrator of the FAA to grant an exception. Congress established this standard in 5 U.S.C. 8835(a). This rule implements the process by which the Congressionally mandated standard will be applied.

Some commenters also expressed concern over the information FAA will rely upon to make the determination, as well as the lack of a mental or medical evaluation. The FAA has carefully tailored this rule to include the most relevant and necessary information for making the determination of whether a controller possesses the requisite exceptional skills and experience. Any controller granted a waiver will still have to meet the rigorous medical standards for air traffic controllers, including passing the annual air traffic controller physical examination.

A few commenters raised the question of whether allowing controllers to work past mandatory retirement will compromise safety. Congress, in effect, addressed this issue when it limited the eligibility for a waiver to controllers with *exceptional* skills and experience. The FAA will use the procedures in this rule, including review of all requests by the Air Traffic Manager and the senior executive manager in the Air Traffic Manager’s regional chain of command, to assure that safety is not compromised.

Finally, some commenters were concerned with the fact that there is no right to appeal the denial or revocation of a waiver. While every applicant will be given full and due consideration, denial or revocation falls solely within the discretion of the Administrator. Accordingly, there is no right to appeal or grieve a denial or termination of an exemption.

Conclusion

After consideration of all comments submitted in response to the final rule, the FAA has determined that no further rulemaking action is necessary. Therefore, SFAR No. 103 remains in effect as adopted.

Issued in Washington, DC, on February 23, 2006.

Marion C. Blakey,
Administrator.

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PRESIDIO TRUST

36 CFR Parts 1001, 1002, 1004 and 1005

RIN 3212–AA00

Management of the Presidio

AGENCY: The Presidio Trust.

ACTION: Final rule.

SUMMARY: The Presidio Trust (Trust) was created by Congress in 1996 to manage most of the former U.S. Army post known as the Presidio of San Francisco, California. Pursuant to law, administrative jurisdiction of approximately 80 percent of this property (Area B) was transferred to the Trust on July 1, 1998. On June 30, 1998, the Trust adopted final interim regulations establishing the basic requirements for the management of Area B. By this rulemaking, the Trust is giving notice of its adoption of those final interim regulations, which were published on June 30, 1998 at 63 FR 35694, as final regulations.

DATES: Effective Date: This final rule is effective on April 3, 2006.

FOR FURTHER INFORMATION CONTACT: Karen A. Cook, General Counsel, The Presidio Trust, P.O. Box 29052, San Francisco, CA 94129–0052, Telephone: 415–561–5300.

SUPPLEMENTARY INFORMATION:

Background

The Presidio Trust is a wholly-owned government corporation created pursuant to Title I of the Omnibus Parks and Public Lands Management Act of 1996, 16 U.S.C. sec. 460bb note, Public Law 104–333, 110 Stat. 4097 (Trust Act). Pursuant to sec. 103(b) of the Trust Act, the Secretary of the U.S. Department of the Interior transferred administrative jurisdiction to the Trust of all of Area B of the former Presidio of San Francisco Army post, as shown on the map referenced in the statute, on July 1, 1998. Notice of such transfer was published in the **Federal Register** on June 12, 1998 (63 FR 32236).

Section 104(j) of the Trust Act authorizes the Trust, “in consultation with the Secretary [of the U.S. Department of the Interior], to adopt and to enforce those rules and regulations that are applicable to the Golden Gate

National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities’ under the Trust Act. The regulations adopted as final herein cover such matters for Area B of the Presidio as resource protection, public use and recreation, vehicles and traffic safety, and commercial and private operations.

The Trust promulgated these regulations as final interim regulations on June 30, 1998, at 63 FR 35694, in order to provide immediately for public safety, good order, and efficient management of the property that was transferred to the Trust’s jurisdiction on July 1, 1998. The Trust provided a public comment period of 60 days on the final interim regulations that closed on August 31, 1998. These have been the operative regulations for management of the area under the Trust’s administrative jurisdiction from June 30, 1998 to date. They can be found at 36 CFR parts 1001—General Provisions, 1002—Resource Protection, Public Use and Recreation, 1004—Vehicles and Traffic Safety, and 1005—Commercial and Private Operations.

Shortly after adopting the final interim regulations, on September 18, 1998, the Trust published a notice of proposed rulemaking containing a proposal for more extensive and revised regulations for management of Area B. These proposed regulations were published at 63 FR 50024, and contained proposed 36 C.F.R. Parts 1001—General Provisions, 1002—Resource Protection, Public Use and Recreation, 1003—Vehicles and Traffic Safety, 1004—Commercial and Private Operations, 1005—Rights-of-Way, and 1006—Presidio Trust Symbols. The period for public comment on these proposed regulations closed on January 8, 1999. On January 19, 1999, the Trust held certain of these proposed regulations in abeyance until further notice. See 64 FR 2870.

After consideration of all comments received on both the proposed regulations and the final interim regulations, the Trust decided to adopt the final interim regulations as final regulations for management of Area B. This decision was taken at the December 9, 2002, meeting of the Trust’s Board of Directors (Resolution 03–7) and was posted on the Trust’s public Web site, but due to an administrative oversight, notice of the Trust’s action was not promptly published in the **Federal Register**.

Since their adoption in June 1998, the final interim regulations have served the public well and have provided clear, concise guidance to those charged with enforcing the Trust’s regulations. The

final interim regulations have been working well since the Trust began administering a portion of the Presidio on July 1, 1998, and at this juncture, the Trust has elected not to change a system of rules that has proven to be generally effective and workable. The Trust remains open to comments on these final regulations and suggestions for their improvement for consideration in connection with a future rulemaking.

II. Summary of the Final Interim Regulations

The final interim regulations were designed to deviate as little as necessary from the regulations for the Presidio that were in place during the approximately four-year period in which the National Park Service (NPS) had administrative jurisdiction of the entire Presidio. A detailed discussion of the final interim regulations was published in the **Federal Register** on June 30, 1998, at 63 FR 35694, including a description of the revisions made to the NPS regulations and a section by section analysis.

The final interim regulations have proven effective since the Trust's adoption of them in June 1998, and the Trust has decided to retain them as the final regulations for management of the area of the Presidio under its administrative jurisdiction. Pursuant to sec. 104(i) of the Trust Act, day-to-day law enforcement activities and services in the area to be administered by the Trust will continue to be conducted primarily by the U.S. Park Police.

The final regulations are virtually identical to the final interim regulations. The Trust has not made any substantive revisions to the final interim regulations, but has made minor, non-substantive revisions to correct typographical errors. In adopting these interim rules as final regulations, the Trust has considered the one comment it received on the final interim regulations. The comment received, including the name and address of the commenter, will be placed in the public record and made available for public inspection and copying.

III. Summary of Comment and Response

The Trust received comments from one commenter, a Senior Historian with the NPS. It is not clear whether the commenter was writing on behalf of himself or the agency that employs him. This commenter wrote a one page letter dated August 27, 1998 concerning the definition of "cultural resource" in § 1001.4 of the regulations. The commenter objected to the definition on the grounds that it was limited to resources that are less than 50 years of

age; instead, in his view, it should protect resources that are 50 years of age or older. In addition, the commenter noted that the final interim regulations did not contain a requirement limiting the height of construction to no more than two or three stories in Area B, in order to preserve the historic landscape, buildings, structures, sites and objects at the Presidio.

The Trust's response to this comment regarding the definition of cultural resource is that this definition is identical to the definition used by the NPS in 36 CFR 1.4. With respect to the comment on construction height, the Trust referred the commenter to the Final General Management Plan Amendment for the Presidio of San Francisco and the accompanying Environmental Impact Statement. These documents established for new construction a height of 60 feet at the Letterman complex and 50 feet elsewhere in the Presidio. The Trust has not promulgated regulations on this topic.

Regulatory Impact

This rulemaking will not have an annual effect of \$100 million or more on the economy nor adversely affect productivity, competition, jobs, prices, the environment, public health or safety, or State or local governments. This final rule will neither interfere with an action taken or planned by another agency nor raise new legal or policy issues. In short, little or no effect on the national economy will result from this final rule. This final rule also will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients of such programs. Therefore, it is not an economically significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866. Furthermore, this final rule is not a "major rule" under the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. sec. 801 *et seq.*

The Trust has determined and certifies that, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and Executive Order 13272, this final rule will not have a significant economic effect on a substantial number of small entities.

The Trust has determined that this final rule is not a "significant energy action" as defined in Executive Order 13211 because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

The Trust has analyzed this final rule in accordance with the principles and

criteria contained in Executive Order 12630 and has determined that the final rule does not pose a risk of a taking of constitutionally protected private property.

The Trust has determined and certifies that, pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. sec. 1502 *et seq.*, and Executive Order 12875, this final rule does not compel the expenditure of \$100 million or more in any given year on local, State, or tribal governments or private entities.

This final rule conforms with the Federalism principles set out in Executive Order 13132 and would not impose any compliance costs on the States or have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it has been determined that this final rule does not have Federalism implications. Similarly, pursuant to Executive Order 13175, the Trust has determined that this final rule does not preempt tribal law or otherwise have implications for tribal governments.

Environmental Impact

The Trust has determined that each of the actions described in this document is categorically excluded from further environmental review pursuant to 36 CFR 1010.7(a)(10) because they will have no significant impact, either individually or cumulatively, on the human environment.

Paperwork Reduction Act

The information collection requirements of these final regulations, which are specified in sec. 1001.8, are coextensive with those of the existing NPS regulations, which have previously been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Other Applicable Authorities

The Presidio Trust has drafted and reviewed these final regulations in light of Executive Order 12988 and has determined that they meet the applicable standards provided in sections 3(a) and (b) of that order.

List of Subjects

36 CFR Part 1001

National parks, Penalties, Public lands, Recreation and recreation areas.

36 CFR Part 1002

National parks, Public lands, Recreation and recreation areas.

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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[FR Doc. 06-1964 Filed 3-1-06; 8:45 am] BILLING CODE 4310-4R-P

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