

(b) *Definitions.* As used in this section—

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Columbia River (COTP) in the enforcement of the safety zone.

Participant means all persons and vessels registered with the event sponsor as a participant in the fireworks display.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, all non-participants may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by calling (503) 209-2468 or the Sector Columbia River Command Center on Channel 16 VHF-FM. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) The COTP will provide notice of the regulated area through advanced notice via broadcast notice to mariners and by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 9:30 to 11 p.m. on July 4, 2023. It will be subject to enforcement this entire period unless the COTP determines it is no longer needed, in which case the Coast Guard will inform mariners via Notice to Mariners.

Dated: May 17, 2023.

M. Scott Jackson,

Captain, U.S. Coast Guard Captain of the Port, Sector Columbia River.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AQ58

Collection or Recovery by VA for Humanitarian Care or Services and for Certain Other Care and Services

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) adopts as final, with a minor technical change, a proposed rule

to revise its regulations concerning reimbursement rates for health care that VA provides to individuals who are not otherwise eligible for such care as veterans or other VA beneficiaries. This rulemaking revises several medical regulations to be consistent with applicable law, to remove obsolete provisions, and to clarify the provision of VA health care to individuals who are not otherwise eligible for such care as veterans or other VA beneficiaries.

DATES: This rule is effective June 22, 2023.

FOR FURTHER INFORMATION CONTACT:

Debra Vatthauer, Office of Finance, Revenue Operations, Payer Relations and Services, Rates and Charges (104RO1), Veterans Health Administration, Department of Veterans Affairs, 128 Bingham Road, Suite 1000, Asheville, NC 28806; telephone: 608-821-7346 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On 29 November 2022 VA published a proposed rule in the **Federal Register** that would revise its regulations concerning reimbursement rates for health care that VA provides to individuals who are not otherwise eligible for such care as veterans or other VA beneficiaries. Specifically, this rulemaking would revise provisions of VA regulations and make them consistent with applicable law along with removing obsolete provisions. These revisions would clarify VA regulations related to the provision of VA health care to individuals who are not otherwise eligible for such care as veterans or other VA beneficiaries, and it would not substantively affect the provision of health care to eligible veterans or other VA beneficiaries.

VA provided a 60-day comment period, which ended on January 30, 2023. VA received one comment on the proposed rule. This comment supported the proposed rule, and we thank the commenter for their comment.

Based on the rationale set forth in the proposed rule, VA is adopting the proposed rule with a minor technical change. To comply with **Federal Register** drafting practices, we are making a minor change to the language proposed in 38 CFR 17.102 to replace the term “below.” with “as follows:”. These changes have no substantive impact on provision of benefits or services to veterans.

Executive Orders 12866, 13563 and 14094

Executive Order 12866 (Regulatory Planning and Review) directs 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 14094 (Executive Order on Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), and Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review). The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at www.regulations.gov.

Regulatory Flexibility Act

The Secretary hereby certifies that this 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. This final rule will affect only individuals and other Federal agencies. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

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.

Paperwork Reduction Act

This rule contains no collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521).

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Assistance Listing

The Assistance Listing program numbers and titles for the programs affected by this document are Veterans Domiciliary Care; 64.011—Veterans Dental Care; 64.012—Veterans Prescription Service; 64.013—Veterans Prosthetic Appliances; 64.014—Veterans State Domiciliary Care; 64.015—Veterans State Nursing Home Care; 64.026—Veterans State Adult Day Health Care; 64.029—Purchase Care Program; 64.033—VA Supportive Services for Veteran Families Program; 64.039—CHAMPVA; 64.040—VHA Inpatient Medicine; 64.041—VHA Outpatient Specialty Care; 64.042—VHA Inpatient Surgery; 64.043—VHA Mental Health Residential; 64.044—VHA Home Care; 64.045—VHA Outpatient Ancillary Services; 64.046—VHA Inpatient Psychiatry; 64.047—VHA Primary Care; 64.048—VHA Mental Health clinics; 64.049—VHA Community Living Center; 64.050—VHA Diagnostic Care; 64.053.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Health care, Health facilities, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on May 3, 2023, 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.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 17 as set forth below:

PART 17—MEDICAL

- 1. The authority citation for part 17 is amended by adding entries for 17.43, 17.44, 17.86, and 17.102 in numerical order to read in part as follows:

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

* * * * *

Section 17.43 also issued under 38 U.S.C. 109, 1784, 8111, and 8153.

Section 17.44 also issued under E.O. 10122, 15 FR 2173, 3 CFR, 1949–1953 Comp., p. 313, E.O. 10400, 17 FR 8648, 3 CFR, 1949–1953 Comp., p. 900, and E.O. 11733, 38 FR 20431, 3 CFR, 1971–1975 Comp., p. 792.

* * * * *

Section 17.86 also issued under 38 U.S.C. 1785.

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Section 17.102 also issued under 38 U.S.C. 109, 1711, 1729, 1784, 1784A, 1785, 8111, 8153.

* * * * *

§ 17.43 [Amended]

- 2. Amend § 17.43 by removing paragraph (b)(3).

- 3. Amend § 17.44 by revising paragraph (a) to read as follows:

§ 17.44 Hospital care for certain retirees with chronic disability (Executive Orders 10122, 10400 and 11733).

* * * * *

(a) Persons defined in this section who are members or former members of the active United States Armed Forces must agree to pay the rate set by the Secretary of Veterans Affairs as prescribed in § 17.102(c), except that no charge will be made for those persons who are members of the Public Health Service, Coast Guard, Coast and Geodetic Survey now NOAA, and enlisted personnel of the Army, Navy, Marine Corps, Air Force, and Space Force.

* * * * *

- 4. Amend § 17.86 by:
 - a. Revising paragraph (e); and
 - b. Removing the parenthetical authority citation at the end of the section.

The revision reads as follows:

§ 17.86 Provision of hospital care and medical services during certain disasters and emergencies under 38 U.S.C. 1785.

* * * * *

(e) The cost of care for medical care and services provided under this section will be determined in accordance with the following:

- (1) If the care is provided to an officer or employee of a non-VA Federal agency VA will charge the rate agreed upon by the Secretary and the head of such department or agency or the Secretary concerned. If no such rate has been agreed to, VA will charge the Inter-Agency Rate as prescribed in § 17.102(c).
- (2) If the care is provided to a member of the Armed Forces VA will charge the rate agreed upon by the Secretary and the head of such branch or the Secretary concerned. If no such rate has been

agreed to, VA will charge the Inter-Agency Rate as prescribed in § 17.102(c).

(3) If the care is authorized under a sharing agreement as described in 38 U.S.C. 8111 or 8153 or § 17.240, VA will charge the rate determined in accordance with the sharing agreement.

(4) If the care is provided to an individual who is responsible for the cost of the care, VA will charge the Cost-Based Rate as prescribed in § 17.102(c). Individuals will be responsible for the cost of care or services if mandated by Federal law (including applicable Appropriations Acts) or when the cost of care or services is not reimbursed by other-than-VA Federal departments or agencies.

* * * * *

- 5. Revise § 17.102 to read as follows:

§ 17.102 Charges for care or services.

Subject to the methodology set forth in paragraph (c) of this section, and notwithstanding the provisions of § 17.101, VA shall charge for VA care and services provided in the circumstances described as follows:

(a) For hospital care or medical services provided:

- (1) As a humanitarian service in a medical emergency in accordance with 38 U.S.C. 1784 or 38 U.S.C. 1784A;
- (2) During and immediately following a disaster or emergency in accordance with 38 U.S.C. 1785 and § 17.86;
- (3) While attending a national convention of an organization recognized under 38 U.S.C. 5902, for emergency medical treatment, in accordance with 38 U.S.C. 1711;
- (4) In error, on the basis of eligibility as a non-veteran recipient of VA hospital care and medical services under title 38 U.S.C., and such an individual subsequently is determined not to have been eligible for such care or services;
- (5) To a beneficiary of the Department of Defense or other Federal agency, to include for inpatient or outpatient care or services authorized for a member of the Armed Forces on active duty, a beneficiary or designee of any other Federal agency, and members or former members of a uniformed service who are entitled to retired or retainer pay, or equivalent pay; or
- (6) To a retiree of the uniformed services with a chronic disability for hospital care identified in Executive Orders 10122, 10400, and 11733 as well as § 17.44.

(b) For hospital care, medical services, domiciliary care, or nursing home care provided:

- (1) In error, on the basis of eligibility for such care and services as a veteran

under §§ 17.34, 17.36, or 17.37, and such an individual was subsequently determined not to have been eligible for such care or services.

(2) To a discharged member of the armed forces of a nation allied with the United States in World War I or World War II in accordance with 38 U.S.C. 109.

(3) Under a sharing agreement in accordance with 38 U.S.C. 8111 or 8153 and 17.240.

(4) Under any other provision of law that authorizes VA to provide care.

(c) Unless rates or charges are otherwise established in contract, in a sharing agreement, or under Federal law, VA will charge under this section at rates based on the VHA Office of Finance Managerial Cost Accounting (MCA) Cost Reports, which sets forth the actual basic costs and per diem rates by type of inpatient care, and actual basic costs and rates for outpatient care visits. Factors for depreciation of buildings and equipment and Central Office overhead are added, based on accounting manual instructions. Additional factors are added for interest on capital investment and for standard fringe benefit costs covering government employee retirement and disability costs. The VHA Office of Finance MCA Cost Reports are used to determine two separate rates: one rate is the general Cost-Based Rate and the other rate is the Inter-Agency Rate. These rates are published annually by VA on the internet site of the Veterans Health Administration Office of Community Care's website at https://www.va.gov/communitycare/revenue_ops/payer_rates.asp.

(d) The rates for prescription drugs that VA furnishes not administered during treatment are based on the actual cost of the drug plus a national average of VA administrative costs as described in § 17.101(m).

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100217095-2081-04]

RTID 0648-XD019

Reef Fish Fishery of the Gulf of Mexico; 2023 Recreational Accountability Measure and Closure for Gulf of Mexico Red Grouper

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for the red grouper recreational sector in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) for the 2023 fishing year through this temporary rule. NMFS has projected that the 2023 recreational annual catch target (ACT) for Gulf red grouper will have been reached by July 21, 2023. Therefore, NMFS closes the recreational sector for Gulf red grouper on July 21, 2023, and it will remain closed through the end of the fishing year on December 31, 2023. This closure is necessary to protect the Gulf red grouper resource.

DATES: This temporary rule is effective from 12:01 a.m., local time, on July 21, 2023, until 12:01 a.m., local time, on January 1, 2024.

FOR FURTHER INFORMATION CONTACT: Dan Luers, NMFS Southeast Regional Office, telephone: 727-551-5719, email: daniel.luers@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the Gulf reef fish fishery, which includes red grouper, under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622. All red grouper weights discussed in this temporary rule are in gutted weight.

Following a recent red grouper stock assessment, NMFS implemented Amendment 53 to the FMP (87 FR 25573, May 2, 2022). Among other measures, that amendment changed the units to estimate recreational red grouper catch from the Marine Recreational Information Program (MRIP) Coastal Household Telephone Survey to the MRIP Fishing Effort Survey (FES). It also revised sector catch limits, resulting in a recreational annual catch limit (ACL) of 1.73 million lb (0.78 million kg) and a recreational annual catch target (ACT) of 1.57 million lb (0.71 million kg) (50 CFR 622.41(e)(2)(iv)) (in MRIP FES units). Subsequent to the final rule for Amendment 53, NMFS implemented a final rule for a framework action to the FMP (87 FR 40742, July 8, 2022), which further revised the red grouper recreational ACL to 2.02 million lb (0.92 million kg) and the ACT to 1.84 million lb (0.83 million kg).

The Gulf red grouper recreational ACL (50 CFR 622.41(e)(2)(iv)) was exceeded in 2022 by approximately 0.70 million lb (0.32 million kg). As specified in 50 CFR 622.41(e)(2)(ii), in the year following a recreational ACL overage, NMFS is required to reduce the length of the following year's recreational fishing season by the amount necessary to ensure that the recreational ACT is not exceeded in that following year.

NMFS projects that the 2023 recreational ACT for Gulf red grouper of 1.84 million lb (0.83 million kg) will be reached as of July 21, 2023. This closure date is based on projected harvest rates using the average of recreational landings from 2021 and 2022. NMFS chose to use a 2-year average of harvest rates because it is most representative of current conditions. NMFS also chose to be conservative in setting the 2023 recreational season by using the 2-year average, which results in a shorter season than projected by using a 3-year average or using only 2022 landings. NMFS determined that it was appropriate to act conservatively because recreational harvest exceeded the red grouper recreational ACL by 72 percent in 2021 and by 35 percent in 2022. Accordingly, this temporary rule closes the recreational sector for Gulf red grouper effective at 12:01 a.m., local time, on July 21, 2023, through the end of the fishing year on December 31, 2023.

During the recreational closure, the bag and possession limits for red grouper in or from the Gulf EEZ are zero. The prohibition on possession of Gulf red grouper also applies in Gulf state waters for any vessel issued a valid Federal charter vessel/headboat permit for Gulf reef fish.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.41(e)(2)(i) and (ii), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment is unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations associated with the closure of the red grouper recreational sector at 50 CFR 622.41(e)(2)(i) and (ii) have already been subject to notice and public comment, and all that remains is to notify the public of the closure. Prior notice and opportunity for public comment are