Part XVII

Department of Veterans Affairs

Semiannual Regulatory Agenda
The purpose of publishing the Department’s regulatory agenda is to allow all interested persons the opportunity to participate in VA’s regulatory planning.

Interested persons are invited to comment on the entries listed in the agenda by contacting the individual agency contact listed for each entry or by writing to: Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT:
Gloria Armstrong at (202) 273-9515.

SUPPLEMENTARY INFORMATION: This document is issued pursuant to Executive Order 12866 “Regulatory Planning and Review” (and implementing guidance) and the Regulatory Flexibility Act, which require that executive agencies semiannually publish in the Federal Register an agenda of regulations that VA will have under development or review.

Robert C. McFetridge, Director, Regulations Management.

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Department of Veterans Affairs (VA) Proposed Rule Stage

VETERANS HEALTH ADMINISTRATION

2927. PATIENTS RIGHTS
Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 501; 38 USC 1721
CFR Citation: 38 CFR 17.33
Legal Deadline: None
Abstract: This document proposes to amend the Department of Veterans Affairs’ medical regulations that set forth patients’ rights to clarify that it is legally permissible for VA patients to receive medication prescribed by any health care professional legally authorized to prescribe medication.
Timetable:

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Regulatory Flexibility Analysis
Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Audrey Crenshaw Drake, Program Director Nursing (108), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 565–6740
Email: audrey.drake@mail.va.gov
RIN: 2900–AL66

2928. • USE OF VA FORM 10–10EZ AND SIGNATURE OF REQUIREMENTS FOR CERTAIN VA FORMS
Priority: Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.
Legal Authority: 38 USC 501; 38 USC 1721
CFR Citation: 38 CFR 17.36
Legal Deadline: None
Abstract: This document proposes to permit already-enrolled veterans to use a new, shorter form when they wish to update their enrollment information previously reported. The new, shorter form will decrease the information collection burden on veterans and will save them time when they are updating their financial information for VA. This document also proposes an amendment to establish who can sign VA administrative health care forms when the veteran is unable to do so. Finally, this document proposes to remove the photocopy of VA Form 10-10EZ, Application for Health Benefits, from parts 17 and 58 of 38 CFR.
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Regulatory Flexibility Analysis
Required: No
Small Entities Affected: None
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Kendra V. Drew, Management and Program Analyst (16), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 254–0329
Email: kendra.drew@hq.med.va.gov
RIN: 2900–AL91

2929. • BENEFICIARY TRAVEL UNDER 38 U.S.C. 111
Priority: Other Significant
Legal Authority: 38 USC 111
The Department of Veterans Affairs proposes to amend its beneficiary travel regulations under the Veterans Health Care, Capital Asset, and Business Improvement Act of 2003, Public Law 108-170.

**Timetable:**

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**Regulatory Flexibility Analysis**

Required: No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** varegulations@mail.va.gov

**Agency Contact:** Kendra V. Drew, Management and Program Analyst (16), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 254–0329

Email: kendra.drew@hq.med.va.gov

**RIN:** 2900–AM03

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**2930. • ELIGIBILITY FOR HEALTH CARE BENEFITS FOR CERTAIN FILIPINO VETERANS IN THE UNITED STATES**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 108–170

**CFR Citation:** 38 CFR 17.39

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) proposes to amend its medical regulations regarding veterans who are eligible to receive health care from VA. VA is proposing to amend the regulations to include Filipino Commonwealth Army veterans who were recognized by authority of the U.S. Army as belonging to organized Filipino guerilla forces, and New Philippine Scouts who reside in the U.S., and who are citizens, or lawfully admitted for permanent residence as eligible for hospital care, nursing home care, and outpatient medical services in the United States in the same manner and subject to the same terms and conditions as apply to U.S. veterans. This amendment will allow those veterans to receive health care. VA is authorized to implement these provisions under the "Veterans Health Care, Capital Asset, and Business Improvement Act of 2003," Public Law 108-170.

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**Regulatory Flexibility Analysis**

Required: No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** varegulations@mail.va.gov

**Agency Contact:** Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 273–7294

Fax: 202 275–2636

Email: edulcose@vba.va.gov

**RIN:** 2900–AM03

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**2931. EDUCATION PROVISIONS OF THE VETERANS PROGRAMS ENHANCEMENT ACT OF 1998**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 16136; 38 USC 3034; 38 USC 3034; 38 USC 3241; 38 USC 3471; 38 USC 3513; 38 USC 3501


**Legal Deadline:** None

**Abstract:** Regulations implementing provisions of the Veterans Benefits and Health Care Improvement Act of 2000, Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, and the Veterans Claims Assistance Act of 2000 that affect VA education benefits programs. These provisions include payment under Survivors’ and Dependents’ Educational Assistance Program, Post-Vietnam Era Veterans Educational Assistance Program, the Montgomery GI Bill-Active Duty Program for the costs of taking tests needed to obtain a license or certification. They also include payment of benefits under the Montgomery GI Bill-Active Duty Program for the difference between the portion of tuition and fees covered by the tuition assistance program administered by the various military departments and the actual charges made by an educational institution. The proposed rule also establishes clear guidelines consistent with the intent of Congress regarding the timing and
scope of assistance VA will provide to a claimant who files a substantially complete application for benefits under any of the education programs VA administers or who tries to reopen a previously denied claim.

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** varegulations@mail.va.gov

**Agency Contact:** Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 273–7294
Fax: 202 275–2636
Email: edul.cose@va.va.gov

**RIN:** 2900–AL44

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**2934. LOAN GUARANTRY: ASSISTANCE TO CERTAIN DISABLED VETERANS IN ACQUIRING SPECIALLY ADAPTED HOUSING**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 501(a); 38 USC 2101

**CFR Citation:** 38 CFR 36.4400

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs is proposing to amend its loan guaranty regulations concerning assistance to certain disabled veterans in acquiring specially adapted housing. The primary intent is to revise these regulations to improve clarity to the reader. Additional changes are made to incorporate the provisions of a legal decision of the VA Office of General Counsel.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For Public Comments:** varegulations@mail.va.gov

**Agency Contact:** Robert D. Finneran, Assistant Director for Policy and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 273–7368
Fax: 202 275–3523
Email: lgyrfinn@va.va.gov

**RIN:** 2900–AL65

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**2935. LOAN GUARANTRY; LOAN SERVICING AND CLAIMS PROCEDURES MODIFICATION**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 501; 38 USC 3720; 38 USC 3732; 38 USC 3736

**CFR Citation:** 38 CFR 36.4301; 38 CFR 36.4306a; 38 CFR 36.4311; 38 CFR 36.4313 to 4321; 38 CFR 36.4324 to 4325; 38 CFR 36.4330; 38 CFR 36.4344a; 38 CFR 36.4346

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs is amending its loan guaranty regulations pertaining to the servicing and liquidation of guaranteed housing loans in default and submitting of guaranty claims by loan holders. These proposed changes regarding loan servicing and claims procedures reflect changes in the servicing of VA loans and are necessary to implement new servicing and claims procedures.

**Timetable:**

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**2936. PRESUMPTIONS OF SERVICE CONNECTION FOR CERTAIN DISABILITIES, AND RELATED MATTERS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 501; 38 USC 1101; 38 USC 1111; 38 USC 1112; 38 USC 1116; 38 USC 1133; 38 USC 1137; PL 98–542

**CFR Citation:** 38 CFR 3; 38 CFR 5

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) proposes to amend its...
adjudication regulations that concern the presumptions of service connection for certain diseases or conditions, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA’s rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

**Timetable:**

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**Regulatory Flexibility Analysis**

- **Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** varegulations@mail.va.gov

**Agency Contact:** Bill Russo, Chief, Regulation Rewrite Project (OOREG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 273–9216
Fax: 202 275–9026
Email: capbruss@vba.va.gov

**Related RIN:** Related to 2900–AL71

**RIN:** 2900–AL70

---

2937. ADJUDICATION: ACCRUED BENEFITS AND DEATH COMPENSATION BENEFITS

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 501(a); 38 USC 1121 and 1122; 31 USC 3329 and 3330; 38 USC 5101; 38 USC 5121; ... 38 CFR 3; 38 CFR 5

**CFR Citation:** 38 CFR 3; 38 CFR 5

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) proposes to amend its compensation and pension regulations relating to accrued and death compensation benefits, currently found in 38 CFR part 3, and to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA’s rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

**Timetable:**

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**Regulatory Flexibility Analysis**

- **Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** varegulations@mail.va.gov

**Agency Contact:** Bill Russo, Chief, Regulation Rewrite Project (OOREG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 273–9216
Fax: 202 275–9026
Email: capbruss@vba.va.gov

**Related RIN:** Related to 2900–AL67

**RIN:** 2900–AL74

---

2939. RULES ON APPORTIONMENTS TO DEPENDENTS, PAYMENTS TO FIDUCIARIES AND INCARCERATED BENEFICIARIES

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 501; 38 USC 5101; 38 USC 5110; 38 USC 5112; 38 USC 5307; 38 USC 5313B

**CFR Citation:** 38 CFR 3; 38 CFR 5

**Legal Deadline:** None

**Abstract:** This document proposes to amend the Department of Veterans Affairs (VA) adjudication rules that concern the award and administration of VA benefits to incarcerated veterans, their dependents, and fugitive felons; the award and administration of compensation to certain incompetent veterans; and the apportionment of benefits to dependents, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA’s rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

**Timetable:**

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**Regulatory Flexibility Analysis**

- **Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** varegulations@mail.va.gov

**Agency Contact:** Bill Russo, Chief, Regulation Rewrite Project (OOREG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 273–9216
Fax: 202 275–9026
Email: capbruss@vba.va.gov

**Related RIN:** Related to 2900–AL67

**RIN:** 2900–AL74

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2940. REGULATIONS RELATED TO PAYMENTS AND ADJUSTMENTS TO PAYMENTS

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 501; 38 USC 1151; 38 USC 1161; 38 USC 1312; 38 USC 1317; 38 USC 1521; 38 USC 5103; 38 USC 5103; 38 USC 5110; 38 USC 5112; 38 USC 5301; 38 USC 5304 and, 5305; 42 USC 2210 (note)
Abstract: The Department of Veterans Affairs (VA) proposes to amend its compensation and pension regulations that relate to setting the rates of payments, adjustments and resumptions of payments, and elections between benefits, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA’s rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

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<td>URL For Public Comments: <a href="mailto:varegulations@mail.va.gov">varegulations@mail.va.gov</a></td>
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<td>Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (OOREG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420</td>
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2942. VOCATIONAL REHABILITATION AND EMPLOYMENT PROGRAM—STATUTORY AMENDMENTS, U.S. COURT OF APPEALS FOR VETERANS CLAIMS DECISIONS, POLICY REVISIONS, AND READIER-FOCUSED PLAIN ENGLISH REGULATIONS

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 3100 to 3121; PL 102–568; PL 106–419; PL 107–103
CFR Citation: 38 CFR 21, subpart A
Legal Deadline: None

Abstract: This document proposes to amend the regulations in 38 CFR part 21, subpart A—Vocational Rehabilitation Under 28 U.S.C. chapter 31. These proposed regulations implement statutory and judicially mandated changes. These changes include amended entitlement criteria to provide vocational rehabilitation program services to a veteran with a 10 percent service-connected disability if the veteran has a serious employment handicap. Changes to entitlement criteria require that service-connected disability contribute in substantial part to a veteran’s vocational impairment to entitle the veteran or servicemember to a program of rehabilitation services to overcome or lessen the effect of that impairment. Some proposed revisions correct earlier language that did not properly interpret the intent of the statute. Other proposed revisions to the regulations are intended to simplify program administration. Finally, the document proposes a completely rewritten text of subpart A in reader-focused plain English for improved readability.

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<td>URL For Public Comments: <a href="mailto:varegulations@mail.va.gov">varegulations@mail.va.gov</a></td>
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<tr>
<td>Agency Contact: Catherine Kruger, Supervisor of Regulations &amp; Legislative Initiatives (28), Department of Veterans Affairs, Vocational Rehabilitation &amp; Employment Services, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420</td>
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<td>Phone: 202 273–7412</td>
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<td>Related RIN: Related to 2900–AL67</td>
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2943. DUTIES OF VA; RIGHTS AND RESPONSIBILITIES OF CLAIMANTS AND BENEFICIARIES

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 1154; 38 USC 1822; 38 USC 5101; 38 USC 5103(a); 38 USC 5104; 38 USC 5109; 38 USC 5112(a); 38 USC 5125; 38 USC 5304; 38 USC 5701(b); …
CFR Citation: 38 CFR 3; 38 CFR 5
Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend its compensation and pension regulations that apply to the duties of VA and the rights and responsibilities of claimants and beneficiaries, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA’s rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

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2944. • ELECTIONS OF IMPROVED PENSION; OLD LAW AND SECTION 306 PENSION
Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 503; 38 USC 521(f); 38 USC 522; 38 USC 543; 38 USC 1312(b); 38 USC 1317(b); 38 USC 1521(i); 45 USC 228; PL 86–211; PL 86–212; PL 87–381; PL 95–588; PL 96–272
CFR Citation: 38 CFR 3; 38 CFR 5
Legal Deadline: None
Abstract: The Department of Veterans Affairs (VA) proposes to amend its compensation and pension regulations relating to its “Old-Law” and “Section 306” pension programs, as well as its regulations concerning elections of improved pension, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA’s rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (OOREG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–9216
Fax: 202 275–9026
Email: capbruss@vba.va.gov
Related RIN: Related to 2900–AL67
RIN: 2900–AL82

2946. • DEPENDENCY AND INDEMNITY COMPENSATION: SURVIVING SPOUSE’S RATE; PAYMENTS BASED ON VETERANS ENTITLEMENT TO COMPENSATION FOR SERVICE-CONNECTION DISABILITY RATED TOTALY DISABLED FOR SPECIFIED PERIODS
Priority: Other Significant
Legal Authority: 38 USC 501; 38 USC 501(a); 38 USC 1311; 38 USC 1314; 38 USC 1321; 38 USC 7104(b); ...
CFR Citation: 38 CFR 3.10; 38 CFR 3.22; 38 CFR 20.1106
Legal Deadline: None
Abstract: The Department of Veterans Affairs (VA) proposes to reorganize existing regulations governing surviving spouse’s rates of dependency and indemnity compensation (DIC) and move them to a new CFR section. The proposed rules would also clarify circumstances in which a survivor may be entitled to DIC under 38 U.S.C. 1311 and 1318 by virtue of the veteran having been ‘entitled to receive’ compensation for a disability that was rated totally disabling for a specified period prior to the veteran’s death. The proposed rules would also reissue without change the Board of Veterans’ Appeals rule regarding the effect of unfavorable decisions during a veteran’s lifetime on claims for death benefits by the veteran’s survivors.

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: None
Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: David Joseph Barrans, Staff Attorney (022), Department of Veterans Affairs, Office of General Counsel, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–6320
RIN: 2900–AL86

2947. • GENERAL PROVISIONS
Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 101; 38 USC 501(a); 38 USC 4303(16); PL 107–116
CFR Citation: 38 CFR 3; 38 CFR 5
Legal Deadline: None

Abstract: The Department of Veterans Affairs proposes to amend its regulations concerning general provisions applicable to its compensation and pension regulations, including definitions, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA’s rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

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Regulatory Flexibility Analysis
Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (OOREG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–9216
Fax: 202 275–9026
Email: capbruss@vba.va.gov

Related RIN: Related to 2900–AL67
RIN: 2900–AL87

2948. • SPECIAL RATINGS

Priority: Substantive, Nonsignificant

Legal Authority: 5 USC 2108; 38 USC 101(16); 38 USC 105; 38 USC 501(a); 38 USC 1110; 38 USC 1114; 38 USC 1115I(E); 38 USC 1702; 38 USC 1712; 38 USC 4331; 38 USC 5110(b); 38 USC 5503; ... 

CFR Citation: 38 CFR 3; 38 CFR 5

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposed to amend its regulations relating to special ratings and ratings for health care eligibility only, currently found in part 3 of title 38 Code of Federal Regulations (CFR), and to relocate them in new 38 CFR part 5. We propose to reorganize these regulations in a more logical order, add new section and paragraph headings, rewrite certain sections and divide certain sections into two or more separate new regulations. VA’s principal goals in rewriting and reorganizing the current regulations are to provide readers with clearer language and more easily understood regulation requirements.

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Regulatory Flexibility Analysis
Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (OOREG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–9216
Fax: 202 275–9026
Email: capbruss@vba.va.gov

Related RIN: Related to 2900–AL67
RIN: 2900–AL87

2949. • DEPENDENCY AND INDEMNIFY COMPENSATION BENEFITS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 101(14); 38 USC 103(b); 38 USC 501(a); 38 USC 1121; 38 USC 1122(b); 38 USC 1141; 38 USC 1304; 38 USC 1310; 38 USC 1311(c), (d); 38 USC 1313; 38 USC 1335; 38 USC 1318(e), (d); 38 USC 5110; 38 USC 5312; ... 

CFR Citation: 38 CFR 3; 38 CFR 5

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend its regulations relating to dependency and indemnity compensation (DIC) benefits, currently found 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA’s rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

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Regulatory Flexibility Analysis
Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (OOREG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–9216
Fax: 202 275–9026
Email: capbruss@vba.va.gov

Related RIN: Related to 2900–AL67
RIN: 2900–AL87

2950. • LOAN GUARANTY: AMENDMENTS TO HYBRID ADJUSTABLE RATE MORTGAGES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 3703(c)(1)

CFR Citation: 38 CFR 36.4212

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend its loan guaranty regulations concerning hybrid adjustable rate mortgages. Under current regulations, an adjustable rate mortgage may be refinanced to a fixed rate loan bearing a higher interest rate. This rule would provide that, during the initial fixed rate period of a hybrid adjustable rate mortgage, the loan may not be refinanced with a fixed rate loan bearing interest at a higher rate than that initially charged on the hybrid adjustable rate mortgage, except during the last 12 months.

Timetable:

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Regulatory Flexibility Analysis
Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (OOREG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–9216
Fax: 202 275–9026
Email: capbruss@vba.va.gov

Related RIN: Related to 2900–AL67
RIN: 2900–AL89
2951. • DEPENDENTS OF VETERANS
Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 101(3); 38 USC 101(31); 38 USC 103(c); 38 USC 5110(f); 38 USC 5112; PL 91–376; PL 93–527; PL 101–508; PL 102–86
CFR Citation: 38 CFR 3; 38 CFR 5
Legal Deadline: None
Abstract: The Department of Veterans Affairs proposes to amend its compensation and pension regulations relating to dependents of veterans, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA’s rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (OOREG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–9216
Fax: 202 275–9026
Email: capbruss@va.va.gov
RIN: 2900–AL95

2953. • GENERAL EVIDENCE REQUIREMENTS, EFFECTIVE DATES, REVISION OF DECISIONS, AND PROTECTION OF EXISTING RATINGS
Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 111; 38 USC 501(a); 38 USC 1110; 38 USC 1117; 38 CFR 1131; 38 CFR 1155; 38 CFR 1159; 38 CFR 5104; 38 CFR 5110; 38 CFR 5112; …
CFR Citation: 38 CFR 3; 38 CFR 5
Legal Deadline: None
Abstract: The Department of Veterans Affairs proposes to amend its compensation and pension regulations that apply to general evidence requirements, general effective dates for new awards, revision of decisions, and protection of existing ratings.

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Donald E. Kaliher, Senior Procurement Analyst (0495A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–9216
Fax: 202 275–9026
Email: capbruss@va.va.gov
RIN: 2900–AM01

OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

2954. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATIONS PLAIN LANGUAGE REWRITE
Priority: Info./Admin./Other
Legal Authority: 38 USC 501; 48 USC 486(c)
CFR Citation: 38 CFR 8
Legal Deadline: None
Abstract: This rulemaking action would amend the Department of Veterans Affairs acquisition regulation to update position titles, to remove obsolete or duplicative material, to delegate authority, and to make plain language revisions to the text. In addition, the rule would update material to correspond to the requirements of the Federal Acquisition Regulation (FAR) and would provide agency procedures for compliance with FAR requirements.

Regulatory Flexibility Analysis Required: No
Small Entities Affected: None
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (OOREG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–9216
Fax: 202 275–9026
Email: capbruss@va.va.gov
RIN: 2900–AM01

2952. • PAYMENTS TO BENEFICIARIES WHO ARE ELIGIBLE FOR MORE THAN ONE BENEFIT
Priority: Substantive, Nonsignificant
Legal Authority: 10 USC 1174; 10 USC 12316; 38 USC 501(a); 38 USC 1501(a); 38 USC 5104; 38 USC 5110; 38 USC 5304; 42 USC 2210 note
CFR Citation: 38 CFR 3; 38 CFR 5
Legal Deadline: None
Abstract: The Department of Veterans Affairs (VA) proposes to amend its adjudication regulations relating to the payments to beneficiaries who are eligible for more than one benefit, currently found in 38 CFR part 3, and
### Department of Veterans Affairs (VA)

#### VETERANS HEALTH ADMINISTRATION

**2956. ADVANCED HEALTH CARE PLANNING**

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 38 USC 501; 38 USC 1721  
**CFR Citation:** 38 CFR 17.32  
**Legal Deadline:** None

**Abstract:** This document amends the VA medical regulations to codify VA policy regarding advanced health care planning. The rule sets forth a mechanism for the use of written advance directives; i.e., a VA living will, a VA durable power of attorney for health care, and a State-authorized advance directive. The rule also sets forth a mechanism for honoring verbal or nonverbal instructions from a patient when the patient is admitted to care when critically ill and loss of capacity may be imminent and the patient is not physically able to sign an advance directive form or the appropriate form is not readily available. This is intended to help ensure that VA acts in compliance with patients' wishes concerning future health care.

**Timetable:**

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<td>11/02/98</td>
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**Regulatory Flexibility Analysis Required:** No  
**Small Entities Affected:** No  
**Government Levels Affected:** None

**URL For Public Comments:** varegulations@mail.va.gov  
**Agency Contact:** Angela Prudhomme, Chief Ethics Policy Service (10E), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue, Washington, DC 20420  
Phone: 202 501-1717  
Email: angela.prudhomme@hq.med.va.gov  
RIN: 2900-AJ28

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**2957. GRANTS TO STATES FOR CONSTRUCTION AND ACQUISITION OF STATE HOME FACILITIES**

**Priority:** Other Significant  
**Legal Authority:** 38 USC 501; 38 USC 1721  
**CFR Citation:** 38 CFR 17.216; 38 CFR 17.222  
**Legal Deadline:** None

**Abstract:** This rule amends the Department of Veterans Affairs regulations concerning State homes. VA provides funds to States for projects for the construction, acquisition, or renovation of State veterans nursing homes and State veterans domiciliaries. This rulemaking requests comments regarding what regulations should be established with respect to the priorities for awarding State home grants for construction, acquisition, or renovation.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No  
**Government Levels Affected:** State

**URL For Public Comments:** varegulations@mail.va.gov  
**Agency Contact:** Frank Salvas, Geriatrics and Extended Care (114), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420  
Phone: 202 273-8536  
Email: franksalvas@va.gov  
RIN: 2900-AJ43
2958. WAIVERS
Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 1722A; PL 106–117
CFR Citation: 38 CFR 17.105
Legal Deadline: None
Abstract: The Department of Veterans Affairs (VA) proposes to amend its medical regulations to give Fiscal Officers at VA medical facilities the authority to waive veterans' debts arising from the medical care copayments. These proposed changes codify an existing 1995 delegation of authority to Fiscal Officers from the Secretary of Veterans Affairs; the purpose of this 1995 delegation was to increase the efficiency of the waiver processing.

Timetable:

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Regulatory Flexibility Analysis
Required: No
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Tony Guagliardo, Chief Business Office (16), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 254-0406
RIN: 2900–AK29

2959. PAYMENT FOR NON–VA PHYSICIAN SERVICES ASSOCIATED WITH EITHER OUTPATIENT OR INPATIENT CARE PROVIDED AT NON–VA FACILITIES
Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 501
CFR Citation: 38 CFR 17.56
Legal Deadline: None
Abstract: This document amends the Department of Veterans Affairs (VA) medical regulations concerning payment for non-VA physician services that are associated with either outpatient or inpatient care provided to eligible VA beneficiaries at non-VA facilities. Currently, 38 CFR 17.56 requires all VA facilities to reimburse for non-VA physician services based upon the Centers for Medicare and Medicaid Services (CMS) physician fee schedule in effect at the time the services are provided. However, it has been determined that special circumstances exist in the State of Alaska. Since a large portion of VA health care provided in Alaska is obtained from non-VA sources, this could negatively impact the quality of care provided veterans living in that State. Therefore, to ensure that the amounts paid to physicians better represent the local cost to furnish a service and to achieve program cost reduction, VA is proposing through this document that an Alaska-specific payment methodology be established for inpatient and outpatient non-VA physician services with that State.

Timetable:

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Regulatory Flexibility Analysis
Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Susan K. Schmetzer, Chief, Policy and Strategic Planning, Health Administration Center, Department of Veterans Affairs, 300 South Jackson Street, Denver, CO 80209 Phone: 303 331–7552 Email: schmetzer@champva.denver.va.gov
RIN: 2900–AK94

2960. PRIORITIES FOR OUTPATIENT MEDICAL SERVICES AND INPATIENT HOSPITAL CARE
Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 101; 38 USC 501; 38 USC 1705; 38 USC 1710; PL 104–262
CFR Citation: 38 CFR 17.49
Legal Deadline: None
Abstract: This document amends the Department of Veterans Affairs medical regulations to enhance the spousal protection provisions covering assets. This change would bring VA closer to State medical assistance policies in protecting spouses from potential impoverishment.

Timetable:

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Regulatory Flexibility Analysis
Required: No
### 2962. ENROLLMENT–PROVISION OF HOSPITAL AND OUTPATIENT CARE TO VETERANS–SUBPRIORITIES OF PRIORITY CATEGORIES 7 AND 8 AND ENROLLMENT LEVEL DECISION

**Priority:** Economically Significant. Major under 5 USC 801.

**Legal Citation:** PL 104–262

**CFR Citation:** 38 CFR 17.36

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** varegulations@mail.va.gov

**Agency Contact:** Eileen Downey, Chief Business Office (161), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue, Washington, DC 20420

Phone: 202 254–0347

Daniel Schoeps, Geriatrics and Extended Care (114), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue, Washington, DC 20420

Phone: 202 273–8540

**RIN:** 2900–AL49

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### 2963. SENSORI–NEURAL AIDS

**Priority:** Substantive, Nonsignificant

**Legal Citation:** 38 USC 1707

**CFR Citation:** 38 CFR 17.149

**Legal Deadline:** None

**Abstract:** This document amends Department of Veterans Affairs (VA) medical regulations concerning sensori-neural aids. 38 CFR section 17.149 authorizes VA to provide sensori-neural aids (e.g., eyeglasses, contact lenses, hearing aids) to seven groups of veterans as identified in the regulation in section 17.149, paragraphs (b)(1)-(b)(7). The veterans presently identified in section 17.149, paragraph (b)(2), are veterans who are former prisoners of war. Section 17.149, paragraph (b)(2), will be revised to include veterans who were awarded the Purple Heart. It will also note that the authority for this regulation, previously identified as 38 U.S.C. 1701(6)(A) but recodified as 38 U.S.C. 1701(6)(A)(i), has been established to include veterans who were previously identified as 38 U.S.C. 1701(6)(A)(i).

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** varegulations@mail.va.gov

**Agency Contact:** Ruth Hoffman, Office of the Assistant Deputy Secretary for Health (10A5A), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue, Washington, DC 20420

Phone: 202 273–8934

**RIN:** 2900–AL51

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### 2964. VA HOMELESS PROVIDERS GRANT AND PER DIEM PROGRAM; RELIGIOUS ORGANIZATIONS

**Priority:** Substantive, Nonsignificant

**Legal Citation:** 38 USC 501; 38 USC 2002; 38 USC 2011; 38 USC 2061; 38 USC 7721

**CFR Citation:** 38 CFR 61.64

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) is amending its regulations concerning the VA Homeless Providers Grant and Per Diem Program. This document revises provisions that apply to religious organizations that receive VA funds under 38 CFR part 61 to ensure that VA activities under this program are open to all qualified organizations, regardless of their religious character, and to establish clear conditions for the receipt of such funding.

**Regulatory Flexibility Analysis**

**Required:** No

**Small Entities Affected:** Governmental Jurisdictions, Organizations

**Government Levels Affected:** Local, State, Tribal

**URL For Public Comments:** varegulations@mail.va.gov

**Agency Contact:** Guy A. Liedke, Program Specialist, Department of Veterans Affairs, Veterans Health Administration, Grant and Per Diem Field Office, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 773 332–0334

Fax: 813 979–3959

Email: guy.a.liedke@med.va.gov

**RIN:** 2900–AL60

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### Timetable:

**Action** | **Date** | **FR Cite**
---|---|---
NPRM | 09/30/03 | 68 FR 56426
NPRM Comment | 10/30/03 | 69 FR 31883
Final Action | 06/08/04 | 69 FR 31883
Final Action Effective | 07/08/04 | 68 FR 44913

---

### Regulatory Flexibility Analysis

**Required:** No

**Small Entities Affected:** Yes

**Government Levels Affected:** Federal

**URL For Public Comments:** varegulations@mail.va.gov

**Agency Contact:** John G. Clements, Prosthetic Program Manager (113), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 773 332–0334

Fax: 813 979–3959

Email: john.clements@hgh.med.va.gov

**RIN:** 2900–AL63

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2965. MEDICATION PRESCRIBED BY NON–VA PHYSICIANS
Priority: Other Significant
Legal Authority: 38 USC 1706; 38 USC 1710; 38 USC 1712(d); 38 USC 1721
CFR Citation: 38 CFR 17.96
Legal Deadline: None
Abstract: The Department of Veterans Affairs is amending its medical regulations that govern the provision of medication to veterans when the medication is prescribed by non-VA physicians. The rule provides that, in limited circumstances, VA may provide medication prescribed by a non-VA physician to veterans enrolled in VA’s health-care system prior to July 25, 2003, if the veterans have requested an initial appointment for primary care in a VA health-care facility before July 25, 2003, and were unable to obtain an initial appointment for primary care within 30 days. The rule establishes specific requirements that veterans must meet to receive such medication, and it establishes limits on the types and quantities of medication VA may provide. VA’s intent is to assist enrolled veterans who have requested primary care appointments but who have not been able to obtain one within 30 days.

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Kendra V. Drew, Management and Program Analyst (16), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 254–0329
Email: kendra.drew@hq.med.va.gov

Virginia Torrise, Deputy Chief Consultant (119), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–8427
Email: virginia.torris@hq.med.va.gov
RIN: 2900–AL68

2966. • FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS TECHNICAL AMENDMENT
Priority: Substantive, Nonsignificant
Legal Authority: 5 USC 301; 38 CFR 501; 42 USC 289; 42 USC 300v–1(b)
CFR Citation: 38 CFR 16
Legal Deadline: None
Abstract: This final rule amends the Department of Veterans Affairs regulations for the protection of human subjects by changing all references to the Office for Protection from Research Risks (OPPR) to the Office for Human Research Protections (OHRP), and revising the footnote at the end of 38 CFR 16.101(i) by deleting the references to research involving fetuses, pregnant women, or human in vitro fertilization. This technical amendments is being made in conjunction with the other federal departments and agencies that have promulgated the Federal Policy for the Protection of Human Subjects.

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Beth McCoy, Consultant, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue, Washington, DC 20420
Phone: 202 273–7211
Email: capbmcco@vba.va.gov
RIN: 2900–AH21

2967. TOTAL DISABILITY EVALUATIONS BASED ON INABILITY OF THE INDIVIDUAL TO ENGAGE IN SUBSTANTIALLY GAINFUL EMPLOYMENT
Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 501(a); 38 USC 512(a); 38 USC 1110; 38 USC 1131; 38 USC 1155; 38 USC 1502; 38 USC 1521(a)
Legal Deadline: None
Abstract: This action amends the regulations in part 3 of title 38, United States Code, and in the Schedule for Rating Disabilities in part 4 to provide clear and objective standards for determining whether a veteran is entitled to a total evaluation based on his or her inability to perform substantially gainful employment due to disability.

Timetable:

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: None
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Beth McCoy, Consultant, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue, Washington, DC 20420
Phone: 202 273–7211
Email: capbmcco@vba.va.gov
RIN: 2900–AH21

2968. SCHEDULE FOR RATING DISABILITIES—THE EYE
Priority: Other Significant
Legal Authority: 38 USC 1155
CFR Citation: 38 CFR 4.75
Legal Deadline: None
Abstract: The Department of Veterans Affairs (VA) is amending that portion of its Schedule for Rating Disabilities that addresses disabilities of the eye. The intended effect of this action is to update this portion of the rating schedule to ensure that it uses current medical terminology and unambiguous criteria and that it reflects medical advances that have occurred since the last review.

Timetable:

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Regulatory Flexibility Analysis
Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Aubrey Tomlinson, Medical Officer (211A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7211
Fax: 202 273–1728
Email: caprmcke@vba.va.gov
RIN: 2900–AH43

2970. DEFINITION OF PSYCHOSIS FOR CERTAIN VA PURPOSES

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 501(a)
CFR Citation: 38 CFR 3.384
Legal Deadline: None
Abstract: This document amends the Department of Veterans Affairs adjudication regulations to define the term “psychosis.” The term is used but not defined in certain statutes that provide presumptive service connection for compensation or health care purposes.

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Regulatory Flexibility Analysis
Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Randy A. McKevitt, Consultant, C&P Service (211A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7211
Fax: 202 273–1728
Email: caprmcke@vba.va.gov
RIN: 2900–A142

2971. FILIPINO VETERANS’ BENEFIT IMPROVEMENTS

Priority: Other Significant
Legal Authority: 38 USC 107
CFR Citation: 38 CFR 3.8; 38 CFR 3.10; 38 CFR 3.1600
Legal Deadline: None
Abstract: This document amends the Department of Veterans Affairs regulations concerning secondary service connection for certain disabilities of the eye. The intended effect of this action is to update this portion of the rating schedule to ensure that it uses current medical terminology and unambiguous criteria and that it reflects medical advances that have occurred since the last review.

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Regulatory Flexibility Analysis
Required: No
Small Entities Affected: None
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Aubrey Tomlinson, Medical Officer (211A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7211
Fax: 202 273–1728
Email: caprmcke@vba.va.gov
Related RIN: Related to 2900–AL76
RIN: 2900–AK21

2972. LOAN GUARANTY: PREPURCHASE COUNSELING REQUIREMENTS

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 501; 38 USC 3203; 38 USC 3210; 38 USC 3220
CFR Citation: 38 CFR 36.4332
Legal Deadline: None
Abstract: This document amends the Department of Veterans Affairs loan guaranty adjudication regulations to reflect changes made by the Department of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 2001, which changed the amount of the burial benefit paid to the survivors of certain Filipino veterans who were residing in the U.S. at the time of their deaths. This also adds the provisions of the Veterans Benefits Act of 2003 to change the rate of compensation and burial benefits paid to new Filipino scouts residing in the U.S.

Timetable:

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Regulatory Flexibility Analysis
Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Randy A. McKevitt, Consultant, C&P Service (211A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7211
Fax: 202 273–1728
Email: caprmcke@vba.va.gov
Related RIN: Related to 2900–AL76
RIN: 2900–AK65
regulations to require that all first-time homebuyers seeking to obtain VA guaranteed home loans complete 3 hours of homeowners’ counseling.

**Timetable:**

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**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

**Government Levels Affected:**

URL For Public Comments:

varegulations@mail.va.gov

**Agency Contact:**

Robert D. Finneran, Assistant Director for Policy and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 273–7368
Fax: 202 275–3523
Email: lgyrfinn@vba.va.gov

RIN: 2900–AK76

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### 2973. ADDITIONAL DISABILITY OR DEATH DUE TO HOSPITAL CARE, MEDICAL OR SURGICAL TREATMENT, EXAMINATION, TRAINING AND REHABILITATION SERVICES, OR COMPENSATED WORK THERAPY PROGRAM

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 5110

**CFR Citation:** 38 CFR 3.1(r)

**Legal Deadline:** None

**Abstract:** This document amends the Department of Veterans Affairs (VA) adjudication regulations concerning the definition of “date of receipt” by authorizing the Under Secretary for Benefits to establish exceptions to the general rule when special or unforeseen circumstances hinder the normal course by which VA would receive a claim, information, or evidence. The intended effect is to ensure that a significant number of claimants are not deprived of potential entitlement to benefits because of unexpected delays or impediments not caused by the claimants.

**Timetable:**

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**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

**Government Levels Affected:**

URL For Public Comments:

varegulations@mail.va.gov

**Agency Contact:**

Beth McCoy, Consultant, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue, Washington, DC 20420

Phone: 202 273–7211
Fax: 202 273–1728
Email: capbmcco@vba.va.gov

RIN: 2900–AK77

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### 2974. TIME LIMIT FOR REQUEST FOR DE NOVO REVIEW

**Priority:** Substantive, Nonsignificant

**Legal Authority:** Not Yet Determined

**CFR Citation:** None

**Legal Deadline:** None

**Abstract:** This document amends VA regulations concerning the time a claimant has in which to request a de novo review of their claim at the Veterans Service Center level. (This would reduce the time from the current 60 days to 15 days.) We believe this amendment will reduce unnecessary delays in the appeals process and will not adversely affect claimants.

**Timetable:**

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<td>67 FR 10866</td>
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<td>05/10/02</td>
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**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

**Government Levels Affected:**

URL For Public Comments:

varegulations@mail.va.gov

**Agency Contact:**

Beth McCoy, Consultant, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, Veterans Benefit Administration, 810 Vermont Avenue, Washington, DC 20420

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Email: capbmcco@vba.va.gov

RIN: 2900–AL12
2976. LOAN GUARANTY: IMPLEMENTATION OF PUBLIC LAW 107–103

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 2102; 38 USC 3703(a)(1) and (c)(1); 38 USC 3714(d); 38 USC 3761

CFR Citation: 38 CFR 36.4302; 38 CFR 36.4308; 38 CFR 36.4404; 38 CFR 36.4527

Legal Deadline: None

Abstract: VA is amending its loan guaranty regulations to implement certain provisions of Public Law 107–103, the Veterans Education and Benefits Expansion Act of 2001. VA is incorporating into the regulations the following statutory changes: (1) An increase in the maximum amount of entitlement from $50,750 to $60,000; (2) a revision of the requirements for direct housing loans to Native American veterans; (3) a revision of the loan assumption notice requirement; and (4) an increase in the amount of assistance for specially adapted housing from $43,000 to $48,000 for severely disabled veterans and from $8,250 to $9,250 for less severely disabled veterans.

Timetable:

Action          Date       FR Cite
Interim Final Rule 02/10/03 68 FR 6625
Interim Final Rule 02/10/03 Effective
Interim Final Rule Comment Period End 04/11/03
Final Action      12/00/04

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Anne DeSena, Assistant Director for Loan Policy and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 273–7368 Fax: 202 275–3523 RIN: 2900–AL23

2977. SCHEDULE FOR RATING DISABILITIES: GUIDELINES FOR APPLICATION OF EVALUATION CRITERIA FOR CERTAIN RESPIRATORY AND CARDIOVASCULAR CONDITIONS; EVALUATION OF HYPERTENSION WITH HEART DISEASE

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3703(a)(1) and (c)(1); 38 USC 3714(d); 38 USC 3761

CFR Citation: 38 CFR 36.4302; 38 CFR 36.4308; 38 CFR 36.4404; 38 CFR 36.4527

Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs (VA) Schedule for Rating Disabilities, 38 CFR part 4, in order to clarify the evaluation of certain respiratory and cardiovascular conditions and to explain that hypertension and hypertensive or other heart diseases will be separately evaluated. The intended effect of this amendment is to clarify the use of the current criteria for evaluating respiratory and cardiovascular conditions, particularly in cases where alternative criteria are provided, in order to ensure that veterans receive consistent evaluations and are not required to undergo unnecessary tests.

Timetable:

Action          Date       FR Cite
NPRM 08/22/02 67 FR 54394
NPRM Comment Period End 10/21/02
Final Action 12/00/04

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Audrey Tomlinson, Medical Officer (211A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 273–7211 Fax: 202 275–2636 Email: edulcose@vba.va.gov RIN: 2900–AL26

2978. VETERANS EDUCATION: VETERANS EDUCATION AND BENEFITS EXPANSION ACT OF 2001

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3511; 38 USC 3512; 38 USC 3540; 38 USC 3543; 38 USC 3672; 38 USC 3675; 38 USC 3680A; 38 USC 3011(c)


Legal Deadline: None

Abstract: Final regulations implementing some of the provisions in the Veterans Education and Benefits Expansion Act of 2001. The provisions are: Restoring benefits for individuals ordered to active duty on or after September 11, 2001; an additional opportunity for Vietnam Era Veterans to qualify for benefits under the Montgomery GI Bill program; establishing an ending date to the eligibility period for spouses under the Survivors’ and Dependents’ Educational Assistance program; expanding special restorative training benefits to include certain disabled spouses and surviving disabled spouses; allowing payment of education benefits for distance learning courses that are part of a certificate program offered by institutions of higher learning; and increasing the amount of scholarship funds someone in a Senior Reserve Officer Training Corps program can receive and remain eligible under the Montgomery GI Bill.

Timetable:

Action          Date       FR Cite
Final Action 04/00/05

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 273–7254 Fax: 202 275–2636 Email: edulcose@vba.va.gov RIN: 2900–AL28

2979. SCHEDULE FOR RATING DISABILITIES; EVALUATION OF MULTIPLE SCARS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1155

CFR Citation: 38 CFR 4.118

Legal Deadline: None
Abstract: The Department of Veterans Affairs is amending its Schedule for Rating Disabilities: Multiple Scars. The current rating schedule provides an evaluation level of 10% under Diagnostic Code 7803 for multiple superficial unstable scars and an evaluation level of 10% under Diagnostic Code 7804 for multiple superficial painful scars. The current rating schedule provides no guidance on whether each painful or each unstable scar no matter how small or close together should be separately evaluated. The current rating schedule is silent as to whether one scar can be rated more than once under diagnostic codes 7802, 7803 and/or 7804. This regulatory amendment replaces the concept of “widely separated areas” by defining and using the concept of “separate anatomical location.” This regulatory amendment instructs adjudicators in the following: how to evaluate scars which traverse separate anatomical locations; how to evaluate multiple scars in a separate anatomical locations; how to evaluate scars which satisfy evaluation criteria for two or more of the following diagnostic codes: 7802, 7803 and 7804; and how to evaluate multiple scars of the head, face and neck where there is also disfigurement in this area. Each diagnostic code has been retilted; within Diagnostic Code 7800, we have included all aspects of scars and/or disfigurement of the head face and neck; therefore, the titles to the remaining scar codes now include the words “Scars, other than those of the head, face and neck region.”

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Audrey Tomlinson, Medical Officer (211A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7211

RIN: 2900–AL32

2980. ADMINISTRATION OF VA EDUCATION BENEFITS—CENTRALIZED CERTIFICATION

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3672; 38 USC 3675; 38 USC 3676

CFR Citation: 38 CFR 21.4266

Legal Deadline: None

Abstract: This document proposes to amend the Department of Veterans Affairs (VA) rules governing certification of enrollment in approved courses for the training of veterans and other eligible persons under education benefit programs VA administers. As part of the approval requirements, educational institutions designate an official of the institution (a VA certifying official) to certify the enrollment of veterans and other eligible persons to VA. As a general rule, VA rules currently require that each branch or extension of an educational institution must perform the certifications and maintain records for veterans and other eligible persons at the branch or extension. The proposed rule would expand current regulations to allow an educational institution to combine the certification functions at one or more of its locations, to include branches and extensions not located with the same State.

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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Fax: 202 275–2636
Email: edulcose@va.gov

RIN: 2900–AL43

2981. LOAN GUARANTY: HYBRID ADJUSTABLE RATE MORTGAGES

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501(a); 38 USC 3703(c)(1)

CFR Citation: 38 CFR 36.4212; 38 CFR 36.4254; 38 CFR 36.4311; 38 CFR 36.4312

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is amending its loan guaranty regulations to implement sections 303 and 308 of Public Law No. 107-330, the Veterans Benefits Act of 2002. VA is incorporating into the regulations the following changes: The addition of hybrid adjustable rate mortgages that will allow VA to guarantee loans with interest rates that remain fixed for a period of not less than the first 3 years of the loan after which the rate can be adjusted annually and an increase in the fee paid for assuming a VA guaranteed loan from .50 percent to 1.00 percent of the loan amount.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Robert D. Finneran, Assistant Director for Policy and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
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Email: lgyrfinn@vba.va.gov

RIN: 2900–AL54

2982. COMPENSATION FOR CERTAIN CASES OF BILATERAL DEAFNESS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 1160(a)(3)

CFR Citation: 38 CFR 3.383(a)(3)

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend its
adjudication regulations concerning the
level of hearing loss at which VA may
pay disability compensation as if the
combination of disabilities in both ears
were service-connected, even though
disability in one ear is service
certified and connected and disability in the
other ear is not. This amendment liberalizes
the "paired organ" rule for bilateral
defafness and provides a definition for the
term "deafness." This amendment
is necessary to implement a recent
legislative change. Rather than
requiring total deafness in both ears to
trigger the paired organ rule, the
proposed amendment would allow VA
to consider partial non-service-
connected hearing loss in one ear when
evaluating disability caused by
compensable service-connected hearing
loss in the other ear.

**Timetable:**

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**Regulatory Flexibility Analysis**

| Required | No |

| Small Entities Affected | No |

| Government Levels Affected | None |

**URL For Public Comments:** varegulations@mail.va.gov

**Agency Contact:** Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 273–7294
Fax: 202 275–2636
Email: edul.cose@va.gov

**RIN:** 2900–AL64

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2984. SERVICE REQUIREMENTS FOR VETERANS

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 3031(d); 38 USC 3033(c); 38 USC 3232(a); 38 USC 3512; . . .

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) is amending its compensation and pension regulations relating to service requirements for veterans, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

**CFR Citation:** 38 CFR 3; 38 CFR 5

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**Regulatory Flexibility Analysis**

| Required | No |

| Small Entities Affected | No |

| Government Levels Affected | None |

**URL For Public Comments:** varegulations@mail.va.gov

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2985. RESERVISTS' EDUCATION:

**REVISION OF ELIGIBILITY REQUIREMENTS FOR THE MONTGOMERY GI BILL–SELECTED RESERVE**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 10 USC 16133; 38 USC 501; 38 USC 501(a); 38 USC 3031(d); 38 USC 3033(c); 38 USC 3232(a); 38 USC 3512; . . .

**CFR Citation:** 38 CFR 21.1032; 38 CFR 21.7540; 38 CFR 21.7550; 38 CFR 21.7551

**Legal Deadline:** None


**Timetable:**

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**Regulatory Flexibility Analysis**

| Required | No |

| Small Entities Affected | No |

| Government Levels Affected | None |

**URL For Public Comments:** varegulations@mail.va.gov

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2986. INCREASE RATES PAYABLE UNDER THE SURVIVOR’S AND DEPENDENT’S EDUCATION ASSISTANT PROGRAM

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 5 USC 3534(b); 5 USC 3564; 5 USC 3686(a); 5 USC 3541(b) and 3542

**CFR Citation:** 38 CFR 21.3045; 38 CFR 21.3333

**Legal Deadline:** None

**Abstract:** This document amends the regulations governing rates of education assistance payable under the Survivors' and Dependents' Educational Assistance (DEA) program to reflect increases required by statutory provisions. The rates of education assistance payable under the DEA program are changed to show a 1.5 percent increase for fiscal year 2003 (October 1, 2002, through September 30, 2003) and 2.2 percent increase for fiscal year 2004 (October 1, 2003, through September 30, 2004).

**Timetable:**

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**Regulatory Flexibility Analysis**

| Required | No |

| Small Entities Affected | No |

| Government Levels Affected | None |

**URL For Public Comments:** varegulations@mail.va.gov

**Agency Contact:** Bill Russo, Chief, Regulation Rewrite Project (OOREG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420

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Fax: 202 275–9026
Email: capbruss@va.gov

**RIN:** 2900–AL67

---
Agency Contact: Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7294
Fax: 202 275–2636
Email: edulcose@vba.va.gov

RIN: 2900–AL69

2986. • VETERANS EDUCATION: NONPAYMENT OF VA EDUCATIONAL ASSISTANCE TO FUGITIVE FELONS

Priority: Substantive, Nonsignificant
Legal Authority: 10 USC 5315B
Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its education regulations to reflect a provision in the Veterans Education and Benefits Expansion Act of 2001. The Act contains a provision in section 505 that prohibits VA from awarding educational assistance to individuals during any period that they are fugitive felons. The prohibition applies to the following VA educational assistance programs: Montgomery GI Bill—Active Duty Program, Post Vietnam Era Veteran’s Educational Assistance Program, and Survivors’ and Dependents’ Educational Assistance Program.

Timetable:

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7294
Fax: 202 275–2636
Email: edulcose@vba.va.gov

RIN: 2900–AL80

2987. • INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—SELECTED RESERVE

Priority: Substantive, Nonsignificant
Legal Authority: 10 USC 16131(b)
CFR Citation: 38 CFR 21.7636
Legal Deadline: None

Abstract: This document amends VA regulations to reflect the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill—Selected Reserve during FY 2004. In accordance with the statutory formula, the rates payable during FY 2003 were increased 2.2 percent. The rates increase is required by 10 U.S.C. 16131(b).

Timetable:

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7294
Fax: 202 275–2636
Email: edulcose@vba.va.gov

RIN: 2900–AL81

2989. • PRESUMPTION OF SOUND CONDITION: AGGRAVATION OF A DISABILITY BY ACTIVE SERVICE

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 501; 38 USC 1111
CFR Citation: 38 CFR 3.304
Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is amending its adjudication regulations regarding the presumption of soundness of a veteran by adding a requirement that before VA may rebut the presumption of soundness of a veteran on entrance into active service, VA must prove that the condition existed prior to entrance into active service and was not aggravated by the veteran’s active service. This amendment is necessary to ensure VA’s regulations comply with a recently released General Counsel Opinion, VAOGCPREC 3-2003, Requirements for Rebutting the Presumption of Sound Condition under 38 U.S.C. 1111 and 38 CFR 3.304. The intended effect of this amendment is to require that VA, not the claimant, prove that the disability preexisted entrance into military service and that the disability was not aggravated by such service before the presumption of soundness on entrance onto active duty is overcome.

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Regulatory Flexibility Analysis Required: No

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7294
Fax: 202 275–2636
Email: edulcose@vba.va.gov

RIN: 2900–AL79

2988. • VETERANS EDUCATION: INCREASED ALLOWANCES FOR THE EDUCATIONAL ASSISTANCE TEXT PROGRAM

Priority: Substantive, Nonsignificant
Legal Authority: 10 USC 16131(b)
CFR Citation: 38 CFR 21.7636
Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its education regulations to reflect rates of subsistence allowance and educational allowance payable under the Educational Assistance Text Program. The Secretary of Defense has concluded that the rates for the 2003-04 academic year should be increased by 9.6 percent over the rates payable for the 2002-03 academic year.

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7294
Fax: 202 275–2636
Email: edulcose@vba.va.gov

RIN: 2900–AL81

2987. • INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—SELECTED RESERVE

Priority: Substantive, Nonsignificant
Legal Authority: 10 USC 16131(b)
CFR Citation: 38 CFR 21.7636
Legal Deadline: None

Abstract: This document amends VA regulations to reflect the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill—Selected Reserve during FY 2004. In accordance with the statutory formula, the rates payable during FY 2003 were increased 2.2 percent. The rates increase is required by 10 U.S.C. 16131(b).

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7294
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Email: edulcose@vba.va.gov

RIN: 2900–AL81

2989. • PRESUMPTION OF SOUND CONDITION: AGGRAVATION OF A DISABILITY BY ACTIVE SERVICE

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 501; 38 USC 1111
CFR Citation: 38 CFR 3.304
Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is amending its adjudication regulations regarding the presumption of soundness of a veteran by adding a requirement that before VA may rebut the presumption of soundness of a veteran on entrance into active service, VA must prove that the condition existed prior to entrance on active service and was not aggravated by the veteran’s active service. This amendment is necessary to ensure VA’s regulations comply with a recently released General Counsel Opinion, VAOGCPREC 3-2003, Requirements for Rebutting the Presumption of Sound Condition under 38 U.S.C. 1111 and 38 CFR 3.304. The intended effect of this amendment is to require that VA, not the claimant, prove that the disability preexisted entrance into military service and that the disability was not aggravated by such service before the presumption of soundness on entrance onto active duty is overcome.

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Regulatory Flexibility Analysis Required: No

URL For Public Comments: varegulations@mail.va.gov

Agency Contact: Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7294
Fax: 202 275–2636
Email: edulcose@vba.va.gov

RIN: 2900–AL79
Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7211
Fax: 202 273–1728
Email: caprmcke@vba.va.gov

RIN: 2900–AL98

BOARD OF VETERANS APPEALS

2991. BOARD OF VETERANS' APPEALS: OBTAINING EVIDENCE AND CURING PROCEDURAL DEFECTS

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 501(a); 38 USC 7102; 38 USC 7103(c); 38 USC 7104(a); 38 USC 7105; 38 USC 7105A; 38 USC 7109(c)
CFR Citation: 38 CFR 19.9; 38 CFR 19.14; 38 CFR 19.29; 38 CFR 19.38; 38 CFR 20.3; 38 CFR 20.703; 38 CFR 20.1003; 38 CFR 20.1304; ...

Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its Board of Veterans' Appeals regulations and the Board's Rules of Practice to make changes with respect to the Board's authority to develop evidence for initial consideration. By way of this rulemaking, we are removing the invalidated portions of the Board's development regulations and changing those regulations to provide that, with certain exceptions, the Board will remand a case to the agency of original jurisdiction when there is a need to clarify the evidence, correct a procedural defect, or take any other action deemed essential for a proper appellate decision.

Timetable:

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Regulatory Flexibility Analysis
Required: No
Small Entities Affected: No
Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman, Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 565–5978

RIN: 2900–AL96

2992. BOARD OF VETERANS APPEALS: APPEAL REGULATIONS; RULES OF PRACTICE; DELEGATIONS OF AUTHORITY

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 701; 38 USC 710; 38 USC 7101; 38 USC 7102; PL 103–271
CFR Citation: 38 CFR 19.14; 38 CFR 20.102; 38 CFR 20.606; 38 CFR 20.608

Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its Appeals Regulations and Rules of Practice of the Board of Veterans' Appeals to update delegations of authority. This amendment is necessary in order to reflect statutory and regulatory changes.

Timetable:

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<th>Action</th>
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Regulatory Flexibility Analysis
Required: No
Small Entities Affected: No
Government Levels Affected: None

Agency Contact: Steven L. Keller, Senior Deputy Vice Chairman, Department of Veterans Affairs, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 565–5978

RIN: 2900–AL77

2993. BOARD OF VETERANS APPEALS: CLARIFICATION OF A NOTICE OF DISAGREEMENT

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 7105
CFR Citation: 38 CFR 19.26; 38 CFR 19.29

Legal Deadline: None

Abstract: The Department of Veterans Affairs is amending its regulations pertaining to agency action upon receipt from a claimant of a Notice of Disagreement of a decision made by VA on a claimant's application for a VA benefit.

Timetable:

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<th>Action</th>
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<tr>
<td>Interim Final Rule</td>
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NATIONAL CEMETERY SYSTEM

2994. • ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERY FOR SURVIVING SPOUSES WHO REMARRY AND NEW PHILIPPINE SCOUTS

Priority: Substantive, Nonsignificant
Legal Authority: 38 CFR 107; PL 108–183
CFR Citation: 38 CFR 1.620
Legal Deadline: None
Abstract: This final rule amends the Department of Veterans Affairs regulations to implement sections 212 and 502 of the statutory provisions of the Veterans Benefits Act of 2003 (Pub L. No. 108-183). The provisions of the Veterans Benefits Act of 2003 allow VA to extend eligibility for burial in a national cemetery to a remarried surviving spouse, based on his or her marriage to an eligible veteran, whose death occurred on or after January 1, 2000. Additionally, the amendment recognizes the eligibility for burial of New Philippine Scouts, who lawfully resided in the United States, and whose death occurred on or after December 16, 2003. We are also adding 38 U.S.C. 107 as an authority citation to 38 CFR 1.620, which defines active service eligibility for Philippine veterans. Further, we are making changes to the format of 38 CFR 1.620(e) and (h) to provide better organization and clarity.

Timetable:

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Karen Barber, Program Analyst (41C3), Department of Veterans Affairs, National Cemetery Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–5183
Fax: 202 273–6697
Email: karen.barber@mail.va.gov

RIN: 2900–AM00

OFFICE OF FINANCIAL MANAGEMENT

2995. STANDARDS FOR COLLECTION, COMPROMISE, SUSPENSION, OR TERMINATION OF COLLECTION EFFORT, AND REFERRAL OF CIVIL CLAIMS FOR MONEY OR PROPERTY; REGIONAL OFFICE COMMITTEES ON WAIVERS AND COMPROMISES; SALARY

Priority: Other Significant
Legal Authority: 31 USC 3700 et seq; 38 USC 501; 38 USC 5302; 38 USC 5314; 38 USC 5315; ... 
CFR Citation: 31 CFR 900 to 904; 38 CFR 1.900 to 1.970
Legal Deadline: None
Abstract: The Department of Veterans Affairs (VA) is amending its regulations on debt collection by eliminating some and cross-referencing the remainder to the revised DOJ/Treasury Governmentwide Federal Claims Collection Standards (31 CFR parts 900 to 904). These regulations are updated to comply with the Debt Collection Improvement Act of 1996. In addition, VA is amending those regulations pertaining to the administration of our Regional Office Committees on Waivers and Compromises.

Timetable:

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None

URL For Public Comments: varegulations@mail.va.gov
Agency Contact: Peter T. Mulhern, Office of Finance (047GC1), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–5570
TDD Phone: 202 273 6574

RIN: 2900–AK10

Department of Veterans Affairs (VA) Completed Actions

2996. REASONABLE CHARGES FOR MEDICAL CARE OR SERVICES; 2003 METHODOLOGY CHANGES

Priority: Other Significant. Major under 5 USC 801.
CFR Citation: 38 CFR 17.101

Completed:

<table>
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<th>Reason</th>
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<tr>
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Reason Date FR Cite
Final Action 12/19/03 68 FR 70714
Final Action Effective 12/19/03

Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None

Agency Contact: David Cleaver
Phone: 202 254–0361
Related RIN: Related to 2900–AJ30, Related to 2900–AK39, Related to 2900–AK73
RIN: 2900–AL06
### VA Completed Actions

**2997. CHARGES USED FOR RECOVERY FROM TORTIOUSLY LIABLE THIRD PARTIES FOR MEDICAL CARE OR SERVICES PROVIDED BY THE DEPARTMENT OF VETERANS AFFAIRS**

- **Priority:** Other Significant
- **CFR Citation:** 38 CFR 17.101; 38 CFR 17.102
- **Completed:**
  - **Reason:** Final Action
  - **Date:** 01/07/04
  - **FR Cite:** 69 FR 1060
- **Regulatory Flexibility Analysis Required:** No
- **Small Entities Affected:** No
- **Government Levels Affected:** None
- **Agency Contact:** David Cleaver
- **Phone:** 202 254–0361
- **RIN:** 2900–AL48

**2998. REASONABLE CHARGES FOR MEDICAL CARE OR SERVICES; 2003 UPDATE**

- **Priority:** Other Significant
- **CFR Citation:** 38 CFR 17.101
- **Completed:**
  - **Reason:** Final Action
  - **Date:** 12/19/03
  - **FR Cite:** 68 FR 70714
- **Regulatory Flexibility Analysis Required:** No
- **Small Entities Affected:** No
- **Government Levels Affected:** None
- **Agency Contact:** David Cleaver
- **Phone:** 202 254–0361
- **Related RIN:** Related to 2900–AK39, Related to 2900–AK73
- **RIN:** 2900–AL57

**2999. SCHEDULE FOR RATING DISABILITIES—THE MUSCULOSKELETAL SYSTEM**

- **Priority:** Other Significant
- **CFR Citation:** 38 CFR 4.71(a)
- **Completed:**
  - **Reason:** Withdrawn
  - **Date:** 04/27/04
  - **FR Cite:** 69 FR 22757
- **Regulatory Flexibility Analysis Required:** No
- **Government Levels Affected:** None
- **Agency Contact:** Audrey Tomlinson
- **Phone:** 202 273–7211
- **RIN:** 2900–AE91

**3000. SCHEDULE FOR RATING DISABILITIES—NEUROLOGICAL CONDITIONS AND CONVULSIVE DISORDERS**

- **Priority:** Other Significant
- **CFR Citation:** 38 CFR 4.120; 38 CFR 4.121; 38 CFR 4.122; 38 CFR 4.123; 38 CFR 4.124; 38 CFR 4.124a
- **Completed:**
  - **Reason:** Withdrawn
  - **Date:** 01/28/04
- **Regulatory Flexibility Analysis Required:** No
- **Small Entities Affected:** No
- **Government Levels Affected:** None
- **Agency Contact:** Audrey Tomlinson
- **Phone:** 202 273–7211
- **RIN:** 2900–AF23

**3001. SCHEDULE FOR RATING DISABILITIES—DIGESTIVE SYSTEM**

- **Priority:** Substantive, Nonsignificant
- **CFR Citation:** 38 CFR 4.114
- **Completed:**
  - **Reason:** Withdrawn
  - **Date:** 01/28/04
- **Regulatory Flexibility Analysis Required:** No
- **Small Entities Affected:** No
- **Government Levels Affected:** None
- **Agency Contact:** Audrey Tomlinson
- **Phone:** 202 273–7211
- **RIN:** 2900–AF24

**3002. GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND REQUIREMENT FOR DRUG–FREE WORKPLACE (ASSISTANCE)**

- **Priority:** Substantive, Nonsignificant
- **CFR Citation:** 38 CFR 4
- **Completed:**
  - **Reason:** Withdrawn
  - **Date:** 02/10/04
  - **FR Cite:** 69 FR 6223
- **Regulatory Flexibility Analysis Required:** No
- **Small Entities Affected:** No
- **Government Levels Affected:** None
- **Agency Contact:** Robert M. White
- **Phone:** 202 273–7228
- **Fax:** 202 275–4800
- **Email:** capbwhit@vba.va.gov
- **Related RIN:** Duplicate of 2900–AK24
- **RIN:** 2900–AL38

**3003. SCHEDULE FOR RATING DISABILITIES; MALIGNANT NEOPLASMS**

- **Priority:** Substantive, Nonsignificant
- **CFR Citation:** 38 CFR 4
- **Completed:**
  - **Reason:** Withdrawn
  - **Date:** 02/09/04
- **Regulatory Flexibility Analysis Required:** No
- **Small Entities Affected:** No
- **Government Levels Affected:** None
- **Agency Contact:** Audrey Tomlinson
- **Phone:** 202 273–7211
- **RIN:** 2900–AK16

**3004. TESTIMONY CERTIFIED OR UNDER OATH**

- **Priority:** Substantive, Nonsignificant
- **CFR Citation:** 38 CFR 3.200
- **Completed:**
  - **Reason:** Withdrawn
  - **Date:** 02/10/04
  - **FR Cite:** 69 FR 6223
- **Regulatory Flexibility Analysis Required:** No
- **Small Entities Affected:** No
- **Government Levels Affected:** None
- **Agency Contact:** Robert M. White
- **Phone:** 202 273–7228
- **Fax:** 202 275–4800
- **Email:** capbwhit@vba.va.gov
- **Related RIN:** Duplicate of 2900–AK24
- **RIN:** 2900–AL38

**3005. ANNUAL RISK ALLOWANCE FOR SERVICEMEMBERS’ GROUP LIFE INSURANCE AND VETERANS’ GROUP LIFE INSURANCE**

- **Priority:** Substantive, Nonsignificant
- **CFR Citation:** 38 CFR 9.15 (new)
- **Completed:**
  - **Reason:** Withdrawn
  - **Date:** 03/04/04
- **Regulatory Flexibility Analysis Required:** No
- **Small Entities Affected:** No
- **Government Levels Affected:** None
- **Agency Contact:** Robert D. Finneran
- **Phone:** 202 273–7368
- **Fax:** 202 275–3523
- **Email:** lgyrfinn@vba.va.gov
- **RIN:** 2900–AK16
3006. NEW AND MATERIAL EVIDENCE
Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 3.156
Completed:
Reason Date FR Cite
Withdrawn 06/09/04

Regulatory Flexibility Analysis
Required: No
Small Entities Affected: No
Government Levels Affected: Federal
Agency Contact: Randy A. McKevitt
Phone: 202 273–7211
Fax: 202 273–1728
Email: caprmcke@vba.va.gov
RIN: 2900–AL56

3007. • DELEGATION OF AUTHORITY—PROPERTY MANAGEMENT CONTRACTOR
Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 301; 38 USC 3720; 38 USC 3732
CFR Citation: 38 CFR 36.4342
Completed:
Reason Date FR Cite
Withdrawn 06/09/04

Regulatory Flexibility Analysis
Required: No
Small Entities Affected: No
Government Levels Affected: Federal
Agency Contact: Randy A. McKevitt
Phone: 202 273–7211
Fax: 202 273–1728
Email: caprmcke@vba.va.gov
RIN: 2900–AL73

3008. • CHANGES OF EFFECTIVE DATE OF RULE ADDING A DISEASE ASSOCIATED WITH EXPOSURE TO CERTAIN HERBICIDE AGENTS: TYPE 2 DIABETES
Priority: Substantive, Nonsignificant
Legal Authority: 5 USC 801–808; 38 USC 1116(c)(2); PL 104–121; PL 102–4
CFR Citation: 38 CFR 3.309(e)
Legal Deadline: None
Abstract: The Department of Veterans Affairs (VA) is changing the effective date of a final rule published on May 8, 2001, titled "Disease Associated With Exposure to Certain Herbicide Agents: Type 2 Diabetes." This action is necessary to conform to the decision of the United States Court of Appeals for the Federal Circuit in Liesegean v. Secretary of Veterans Affairs, which determined that the correct effective date of the amendment was May 8, 2001. The effect of this Notice is to insure that the effective date conforms to the decision of the United States Court of Appeals for the Federal Circuit and current VA practice.
Timetable:
Action Date FR Cite
Final Action Effective 05/08/01 69 FR 31882
Final Action 06/08/04 69 FR 31882

Regulatory Flexibility Analysis
Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: varegulations@mail.va.gov
Agency Contact: William W. Lutes, Assistant Director for Property Management and Strategic Administration, Department of Veterans Affairs, Loan Guaranty Service (263), 810 Vermont Avenue, Washington, DC 20420
Phone: 202 273–7379
RIN: 2900–AL85

3009. IMPLEMENTING THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)
Priority: Other Significant
CFR Citation: 48 CFR 824; 48 CFR 852
Completed:
Reason Date FR Cite
Withdrawn 03/10/04

Regulatory Flexibility Analysis
Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Cathy Dailey
Phone: 202 273–8774
Fax: 202 273–9302
Email: cathy.dailey@mail.va.gov
RIN: 2900–AL93

3010. BOARD OF VETERANS’ APPEALS REGULATIONS; RULES OF PRACTICE
Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 19.3 (Revision); 38 CFR 20.609 (Revision); 38 CFR 20.903 (Revision); 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1002; 38 CFR 20.1100 (Revision); 38 CFR 19.10; 38 CFR 19.15 (Revision); 38 CFR 19.39; 38 CFR 20.3; 38 CFR 20.101 (Revision); 38 CFR 20.102 (Revision); 38 CFR 20.201 (Revision); 38 CFR 20.605 (Revision); 38 CFR 20.606 (Revision);
Completed:
Reason Date FR Cite
Withdrawn 03/04/04 69 FR 10185

Regulatory Flexibility Analysis
Required: No
Small Entities Affected: None
Related to 2900–AK63
Agency Contact: Steven L. Keller
Phone: 202 565–5978
Email: cathy.dailey@mail.va.gov
RIN: 2900–AK63

Related RIN: Related to 2900–AK63
Completed:
Reason Date FR Cite
Withdrawn 03/04/04 69 FR 10185
3011. THE BOARD OF VETERANS’ APPEALS: RULES OF PRACTICE—MOTION FOR REVIEW OF DECISIONS ON GROUNDS OF CLEAR AND UNMISTAKABLE ERROR
Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 20.1403; 38 CFR 20.1405(a); 38 CFR 20.1405(b)
Completed:

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Steven L. Keller
Phone: 202 565–5978
RIN: 2900–AK52

3012. RULES OF PRACTICE: MEDICAL OPINIONS FROM THE VETERANS HEALTH ADMINISTRATION
Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 20.901(a)
Completed:

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Regulatory Flexibility Analysis Required: No
Government Levels Affected: None
Agency Contact: Steven L. Keller
Phone: 202 565–5978
RIN: 2900–AJ85

3013. BOARD OF VETERANS’ APPEALS RULES OF PRACTICE: NOTICE PROCEDURES RELATING TO WITHDRAWAL OF SERVICES BY A REPRESENTATIVE
Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 20.608(b)(2)
Completed:

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Steven L. Keller
Phone: 202 565–5978
RIN: 2900–AL45

3014. STATE CEMETERY GRANTS
Priority: Other Significant
CFR Citation: 38 CFR 39.1; 38 CFR 39.2; 38 CFR 39.3; 38 CFR 39.7; 38 CFR 39.8; 38 CFR 39.9 (New)
Completed:

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: Undetermined
Agency Contact: David K. Schettler
Phone: 202 501–3100
Email: david.schettler@mail.va.gov
RIN: 2900–AL40

[FR Doc. 04–11484 Filed 06–25–04; 8:45 am]