Monday,
May 16, 2005

Part XVII

Department of Veterans Affairs

Semiannual Regulatory Agenda
DEPARTMENT OF VETERANS AFFAIRS

38 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Veterans Affairs.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda announces the regulations that the Department of Veterans Affairs (VA) will have under development or review during the 12-month period beginning in the spring of 2005. The purpose in publishing the Department’s regulatory agenda is to allow all interested persons the opportunity to participate in VA’s regulatory planning.

ADDRESSES: 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: Millicent Dew 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.

Department of Veterans Affairs—Proposed Rule Stage

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### Department of Veterans Affairs—Completed Actions

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VETERANS HEALTH ADMINISTRATION

2782. USE OF VA FORM 10–10EZR AND SIGNATURE OF REQUIREMENTS FOR CERTAIN VA FORMS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 501; 38 USC 1721

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.

Timetable:

Action
NPRM

Date
10/00/05

FR Cite

VETERANS BENEFITS ADMINISTRATION

2784. EDUCATION PROVISIONS OF THE VETERANS PROGRAMS ENHANCEMENT ACT OF 1998

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 16136; 38 USC 3034; 38 USC 3241; 38 USC 3485; 38 USC 3537; 38 USC 3677; 38 USC 3684; 38 USC 5101

Legal Deadline: None

Abstract: This proposed rule amendment will bring VA’s educational assistance regulations into agreement with the Veterans Program Enhancement Act of 1998 and Veterans Education and Expansion Act of 2001. This amendment will include making advance payments to work-study students optional rather than mandatory and revising the approval criteria for on-job training programs offered by the Federal Government or by State or local governments. This rule is being amended to reflect additional work study opportunities provided under the Veterans Education and Benefits Expansion Act of 2001.

Timetable:

Action
NPRM

Date
10/00/05

FR Cite

VETERANS HEALTH ADMINISTRATION

2785. VETERANS AND DEPENDENTS EDUCATION: TOPPING-UP TUITION ASSISTANCE; LICENSING AND CERTIFICATION TESTS; DUTY TO ASSIST EDUCATION CLAIMANTS

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 3014; 38 USC 3015; 38 USC 3034; 38 USC 3241; 38 USC 3471; 38 USC 3513; 38 USC 3501

Legal Deadline: None

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 of 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.

**Timetable:**

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<td>NPRM</td>
<td>06/30/03</td>
<td>68 FR 38657</td>
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<td>NPRM Comment</td>
<td>09/29/03</td>
<td>68 FR 38657</td>
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<td>Second NPRM</td>
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**Legal Deadline:**

None

**CFR Citation:**

38 CFR 21.3021; 38 CFR 21.4131

**Priority:**

Substantive, Nonsignificant

**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: lynn.nelson@vba.va.gov

**RIN:** 2900–AK80

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**2787. SURVIVORS’ AND DEPENDENTS’ EDUCATIONAL ASSISTANCE PROGRAM ELIGIBILITY PERIOD FOR ELIGIBLE CHILDREN AND OTHER MISCELLANEOUS ISSUES**

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 2141; 38 USC 101(4)(a); 38 USC 501(a); 38 USC 512; 38 USC 3002(3); 38 USC 3500 to 3566; 38 USC 5113; PL 106–419; PL 107–14; …

CFR Citation: 38 CFR 21.3021; 38 CFR 21.3041; 38 CFR 21.4131

Legal Deadline: None

Abstract: The Department of Veterans Affairs is proposing to amend its education regulations to reflect changes in the eligibility period for children due to statutory provisions in Veterans Benefits and Health Care Improvement Act of 2000 and the Veterans Benefits and Expansion Acts of 2001 and 2002.

**Timetable:**

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<td>68 FR 38657</td>
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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**URL For Public Comments:** www.regulations.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: lynn.nelson@vba.va.gov

**RIN:** 2900–AL43

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**2788. LOAN GUARANTY: 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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<td>68 FR 38657</td>
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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** www.regulations.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: lgfyrfinn@vba.va.gov

**RIN:** 2900–AL58

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**2789. BURIAL BENEFITS**

Priority: Substantive, Nonsignificant

Legal Authority: 38 USC 101(2); 38 USC 501; 38 USC 2301 to 2305; 38 USC 2377
Proposed Rule Stage

2740. RULES ON PAYMENTS TO DEPENDENTS; BENEFICIARIES; PAYMENTS TO FIDUCIARIES AND INCARCERATED BENEFICIARIES

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 5103A; 38 USC 5110; 38 USC 5112; 38 USC 5307; 38 USC 5313B  
CFR Citation: 38 CFR 3; 38 CFR 5  
Legislative Deadline: None  
Abstract: This document proposes to amend the Department of Veterans Affairs (VA) rules concerning the award and administration of compensation to certain incompetent veterans; and the apportionment of benefits to dependents. These revisions are proposed 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: www.regulations.gov  
Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (00REG2), 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–AL72

2791. 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 5103A; 38 USC 5110; 38 USC 5112; 38 USC 5301; 38 USC 5304A and, 5305; 42 USC 2210 (note)  
CFR Citation: 38 CFR 3; 38 CFR 5  
Legislative Deadline: None  
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. These revisions are proposed in a logical, claimant-focused, and user-friendly format.  

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Government Levels Affected: None  
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Phone: 202 273–9216  
Fax: 202 275–9026  
Email: capbruss@vba.va.gov  
Related RIN: Related to 2900–AL67  
RIN: 2900–AL75

2792. CLAIMS BASED ON SERVICE IN THE PHILIPPINE ARMED FORCES

Priority: Substantive, Nonsignificant  
Legal Authority: 38 USC 107; 38 USC 501; 38 USC 3565; 38 USC 5112  
CFR Citation: 38 CFR 3; 38 CFR 5; 38 CFR 6  
Legislative Deadline: None  
Abstract: The Department of Veterans Affairs (VA) proposes to amend its compensation and pension regulations that apply to Filipino veterans and their survivors. 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: www.regulations.gov  
Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (00REG2), 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–AL76
2793. VOCATIONAL REHABILITATION AND EMPLOYMENT PROGRAM—STANDARD AMENDMENTS, U.S. COURT OF APPEALS FOR VETERANS CLAIMS DECISIONS, POLICY REVISIONS, AND READER-FOCUSED PLAIN ENGLISH REGULATIONS

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 3100 to 3121; PL 102–568; PL 104–275; 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 service member 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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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: www.regulations.gov

Agency Contact: Catherine Kruger, Supervisor of Regulations & Legislative Initiatives (28), Department of Veterans Affairs, Vocational Rehabilitation & Employment Services, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7412

RIN: 2900–AL78

2794. DUTIES OF VA; RIGHTS AND RESPONSIBILITIES OF CLAIMANTS AND BENEFICIARIES

Priority: Other Significant
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 govern the award and administration of special benefits for veterans, dependents and survivors, including ancillary benefits relating to service connection (e.g., financial assistance in purchasing a vehicle and/or adaptive equipment). 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: www.regulations.gov

Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (00REG2), 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–AL84

2796. 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 it regulations concerning general provisions applicable to its compensation and pension regulations, including definitions. 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: www.regulations.gov
Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (00REG2), 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–AL88

2797. 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 1115(f)(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) proposes to amend its regulations relating to special ratings and ratings for health care eligibility only. 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.
Timetable:
Action Date FR Cite
NPRM 12/00/05
Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: www.regulations.gov
Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (00REG2), 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

2798. 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 1315; 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. 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:
Action Date FR Cite
NPRM 12/00/05
Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: www.regulations.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–AL92

2800. 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 regulations concerning hybrid adjustable rate mortgages. Under current regulations, an adjustable rate mortgage may 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:
Action Date FR Cite
NPRM 12/00/05
Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: www.regulations.gov
Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (00REG2), 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

2799. 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 proposes to amend its loan guaranty regulations concerning hybrid adjustable rate mortgages. Under current regulations, an adjustable rate mortgage may 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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<td>Related RIN: Related to 2900–AL67</td>
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### 2801. 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 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 compensation and pension regulations that apply to general evidence requirements, general effective dates for new awards, revision of decisions, and protection of existing ratings for purposes of compensation and pension benefits. These revisions are proposed as part of VA’s rewrite and reorganization of all of its compensation and pension rules in a logical, claimant-focused, and user-friendly format.

**Timetable:**

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### 2802. 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 concern improved pension. 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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### 2803. IMPROVED PENSION

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 501; 38 USC 1502 to 1503; 38 USC 1508; 38 USC 1521 to 1522; 38 USC 1541 to 1542; 38 USC 1718; 38 USC 5303A; 10 USC 1448; 42 USC 300c–22(note); 42 USC 7385; PL 100–456

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

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs proposes to amend its adjudication regulations that concern improved pension. 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. The intended effect of the proposed revisions is to assist
2805. PAYMENTS AND ADJUSTMENTS TO PAYMENTS

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 501(a)
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 payment of VA benefits and adjustments to payments. These revisions are proposed as part of VA’s reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format. The intended effect of the proposed revisions is to assist claimants and VA personnel in locating and understanding these regulations.

Timetable:

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: www.regulations.gov
Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (00REG2), 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–AM05

2806. SERVICE–CONNECTED DISABILITY COMPENSATION

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 501(a)
CFR Citation: 38 CFR 5
Legal Deadline: None
Abstract: The Department of Veterans Affairs (VA) proposes to reorganize and rewrite its regulations concerning VA’s service-connected disability compensation program. These revisions are proposed as part of VA’s reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format. The intended effect of the proposed revisions is to assist claimants and VA personnel in locating and understanding these regulations.

Timetable:

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
URL For Public Comments: www.regulations.gov
Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (00REG2), 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–AM06

2807. PHASE–IN OF FULL CONCURRENT RECEIPT OF MILITARY RETIRED PAY AND VETERANS DISABILITY COMPENSATION FOR CERTAIN MILITARY RETIREES

Priority: Other Significant
Legal Authority: 10 USC 1414; 38 USC 501(a); 38 USC 5304 (a); 38 USC 5305
CFR Citation: 38 CFR 3.750

Legal Deadline: None
Abstract: VA proposes to update its adjudication regulations to implement the National Defense Authorization Act for Fiscal Year 2004 by including provisions for concurrent receipt of military retired pay and VA disability compensation for eligible veterans. The changes are intended to update 38 CFR part 3.750 so that it is consistent with the new law passed by Congress.

Timetable:

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

### VA

#### URL For Public Comments:
www.regulations.gov

#### Agency Contact:
David McLenachen, Chief, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, 810 Vermont Avenue NW, Veterans Benefit Administration, Washington, DC 20420 Phone: 202 273–7212 Email: capdmcle2@vba.va.gov

**RIN:** 2900–AM15

#### 2809. • VA BENEFITS CLAIMS

**Priority:** Other Significant

**Legal Authority:** 38 USC 501(a); 38 USC 5101; 38 USC 5102; 38 USC 5103A; 38 USC 5108; 38 USC 5110; 38 USC 7105

**CFR Citation:** 38 CFR 3; 38 CFR 5; 38 CFR 20

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) proposes to add regulations concerning claims for VA benefits to its new regulations governing VA compensation, pension, burial and related benefits. These revisions are proposed as part of VA’s rewrite and reorganization of those rules in a logical, claimant-focused, and more user-friendly format. The intended effect of the proposed revisions is to assist claimants and VA personnel in locating and understanding these claims provisions.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** www.regulations.gov

**Agency Contact:** Clay H. Witt, Senior Counsel, Regulation Rewrite Project (00REG2), Department of Veterans Affairs, 810 Vermont Avenue, Washington, DC 20420 Phone: 202 273–9838 Fax: 202 273–9026 Email: clay.witt@va.gov

**Related RIN:** Related to 2900–AL67

**RIN:** 2900–AM16

### OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT

#### 2810. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATIONS PLAIN LANGUAGE REWRITE

**Priority:** Info./Admin./Other

**Legal Authority:** 38 USC 501; 40 USC 121(c ); 38 USC 8153

**CFR Citation:** 48 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.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** www.regulations.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: 202 273–8819 Fax: 202 273–9302 Email: donald.kaliher@mail.va.gov

**RIN:** 2900–AK78

### BOARD OF VETERANS APPEALS

#### 2811. 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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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** www.regulations.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–AL97
VA

COMPENSATION AND PENSION SERVICE

2812. APPLICATIONS, CLAIMS, AND NOTICE REQUIREMENTS

Priority: Other Significant

Legal Authority: 38 USC 501(a); 38 USC 5103; 38 USC 5103A

CFR Citation: 38 CFR 3.1; 38 CFR 3.159

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) proposes to amend its adjudication regulation defining "claim" and "application" to make it clearer and consistent with recent statutory changes. We also propose to revise the regulation governing VA's duty to provide a claimant with notice of the information and evidence necessary to substantiate a claim as required under 38 U.S.C. 5103(a). The purpose of these proposed changes is to clarify when VA's duty to notify a claimant of how to substantiate a claim for benefits arises under 38 U.S.C. 5103(a), the responsibilities of claimants to substantiate a claim, and the effect of various actions of the parties relating to substantiating a claim.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: www.regulations.gov

Agency Contact: Maya Ferrandino, Consultant, C&P (211A), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 273–7232

RIN: 2900–AM17

Department of Veterans Affairs (VA) Final Rule Stage

2813. 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.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: www.regulations.gov

Agency Contact: Angela M. Prudhomme, Chief Ethics Policy Service (10E), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 501–1717

Fax: 202 501–2238

Email: angela.prudhomme@va.gov

RIN: 2900–AJ28

2814. 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.

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Small Entities Affected: State

Government Levels Affected: State

URL For Public Comments: www.regulations.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

RIN: 2900–AJ43
2815. 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 Authority: PL 104–262
CFR Citation: 38 CFR 17.36
Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) published in the Federal Register on January 17, 2003, an interim final rule amending VA's medical regulations at 38 CFR part 17 to establish additional subpriorities within enrollment priority categories 7 and 8 and to provide that, beginning January 17, 2003, VA will continue to treat all veterans currently enrolled in any category, and will treat new enrollees in categories 1 through 7. However, the interim final rule provided that VA will suspend the enrollment of additional veterans who are in the lowest statutory enrollment category (priority category 8). Based on the rationale set forth in the interim final rule, VA is adopting the provisions of the interim final rule as a final rule without change.

Timetable:

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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: www.regulations.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: 202 254–0406
Email: audrey.drake@mail.va
RIN: 2900–AL66

2817. 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 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: www.regulations.gov
Agency Contact: Tony Guagliardo, Director of Business Policy, Chief Business Office (163), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 254–0406
Email: virginia.torris@hq.med.va.gov
RIN: 2900–AL68

2818. FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS TECHNICAL AMENDMENT

Priority: Info./Admin./Other
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 (OPRR) 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 amendment is being made in conjunction with the other Federal departments and agencies that
have promulgated the Federal Policy for the Protection of Human Subjects.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** www.regulations.gov

**Agency Contact:** Dr. Joan Porter, Associate Director, Office of Research Oversight (ORO), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 565–7191
Fax: 202 565–9194
Email: joan.porter@hq.med.va.gov

RIN: 2900–AL99

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### 2819. ELIGIBILITY FOR HEALTH CARE BENEFITS FOR CERTAIN FILIPINO VETERANS IN THE UNITED STATES

**Priority:** Other Significant

**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 out patient 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.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** www.regulations.gov

**Agency Contact:** Tony Guagliardo, Director of Business Policy, Chief Business Office (163), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 254–0347

Email: joan.porter@hq.med.va.gov

RIN: 2900–AM03

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### 2820. ELIMINATION OF CO–PAY FOR SMOKING CESSATION COUNSELING

**Priority:** Other Significant

**Legal Authority:** 38 USC 501

**CFR Citation:** 38 CFR 17.108

**Legal Deadline:** None

**Abstract:** This interim final rule will amend VA regulations so that a co-pay is no longer required of veterans to participate in individual and group smoking cessation counseling. Eliminating the co-pay for smoking cessation counseling has strong potential to increase participation and thus improve veterans’ health.

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** www.regulations.gov

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

Phone: 202 254–0347

Email: joan.porter@hq.med.va.gov

RIN: 2900–AM11

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### VETERANS BENEFITS ADMINISTRATION

#### 2821. 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:** No

**Government Levels Affected:** None

**URL For Public Comments:** www.regulations.gov

**Agency Contact:** David McLenachen, Chief, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, 810 Vermont Avenue NW, Veterans Benefit Administration, Washington, DC 20420

Phone: 202 273–7212

Email: capdmcle2@vba.va.gov

RIN: 2900–AH21

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#### 2822. SCHEDULE FOR RATING DISABILITIES—THE EYE

**Priority:** Other Significant

**Legal Authority:** 38 USC 1155

**Abstract:**

**Timetable:**

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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** www.regulations.gov

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

Phone: 202 254–0347

Email: joan.porter@hq.med.va.gov

RIN: 2900–AM11
2825. 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 (VA) adjudication regulations to reflect changes made by the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 2001, which changed the rate of compensation payments to certain Filipino veterans residing in the U.S., and the Veterans Benefits and Health Care Improvement Act of 2000, 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.

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

URL For Public Comments:
www.regulations.gov

Agency Contact: David McLenachen, Chief, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, 810 Vermont Avenue NW, Veterans Benefit Administration, Washington, DC 20420 Phone: 202 273–7212 Email: capdmcle2@vba.va.gov

RIN: 2900–AI42

2824. 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.

Timetable:

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

URL For Public Comments:
www.regulations.gov

Agency Contact: David McLenachen, Chief, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, 810 Vermont Avenue NW, Veterans Benefit Administration, Washington, DC 20420 Phone: 202 273–7212 Email: capdmcle2@vba.va.gov

RIN: 2900–AK43

2823. CLAIMS BASED ON AGGRAVATION OF NONSERVICE–CONNECTED DISABILITY

Priority: Other Significant
Legal Authority: 38 USC 501(a)
CFR Citation: 38 CFR 3.310
Legal Deadline: None

Abstract: This document amends VA regulations concerning secondary service connection for certain disabilities. This amendment is necessary because of a recent decision by the U.S. Court of Veterans Appeals and will establish a new means by which veterans may be compensated for disabilities related to other service-connected conditions.

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2824. 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:
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Agency Contact: David McLenachen, Chief, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, 810 Vermont Avenue NW, Veterans Benefit Administration, Washington, DC 20420 Phone: 202 273–7212 Email: capdmcle2@vba.va.gov

RIN: 2900–AK21

2824. 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:
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Agency Contact: David McLenachen, Chief, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, 810 Vermont Avenue NW, Veterans Benefit Administration, Washington, DC 20420 Phone: 202 273–7212 Email: capdmcle2@vba.va.gov

RIN: 2900–AK43

2823. CLAIMS BASED ON AGGRAVATION OF NONSERVICE–CONNECTED DISABILITY

Priority: Other Significant
Legal Authority: 38 USC 501(a)
CFR Citation: 38 CFR 3.310
Legal Deadline: None

Abstract: This document amends VA regulations concerning secondary service connection for certain disabilities. This amendment is necessary because of a recent decision by the U.S. Court of Veterans Appeals and will establish a new means by which veterans may be compensated for disabilities related to other service-connected conditions.

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2824. 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:
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Agency Contact: David McLenachen, Chief, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, 810 Vermont Avenue NW, Veterans Benefit Administration, Washington, DC 20420 Phone: 202 273–7212 Email: capdmcle2@vba.va.gov

RIN: 2900–AK21

2824. 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:
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Agency Contact: David McLenachen, Chief, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, 810 Vermont Avenue NW, Veterans Benefit Administration, Washington, DC 20420 Phone: 202 273–7212 Email: capdmcle2@vba.va.gov

RIN: 2900–AK43

2823. CLAIMS BASED ON AGGRAVATION OF NONSERVICE–CONNECTED DISABILITY

Priority: Other Significant
Legal Authority: 38 USC 501(a)
CFR Citation: 38 CFR 3.310
Legal Deadline: None

Abstract: This document amends VA regulations concerning secondary service connection for certain disabilities. This amendment is necessary because of a recent decision by the U.S. Court of Veterans Appeals and will establish a new means by which veterans may be compensated for disabilities related to other service-connected conditions.

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2826. EXCEPTIONS TO DEFINITION OF DATE OF RECEIPT BASED ON SPECIAL OR UNFORESEEN CIRCUMSTANCES

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 5110
CFR Citation: 38 CFR 4.104
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.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: www.regulations.gov

Agency Contact: David McLenachen, Chief, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 Phone: 202 273–7212 Email: capdmcle2@vba.va.gov

RIN: 2900–AL26

2828. VETERANS EDUCATION: VETERANS EDUCATION AND BENEFITS EXPANSION ACT OF 2001

Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 1155

Abstract: This document implements 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.

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: None

Government Levels Affected: None

URL For Public Comments: www.regulations.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: lynn.nelson@vba.va.gov

RIN: 2900–AL28

2829. 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 percent under Diagnostic Code 7803 for superficial unstable scars and an evaluation level of 10 percent under Diagnostic Code 7804 for multiple...
superficial painful scars. The current rating schedule provides no guidance on whether each painful or each unstable scar 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 retitled; 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."

**Timetable:**

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<td>10/29/02</td>
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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** www.regulations.gov

**Agency Contact:**

David McLenachen, Chief, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, 810 Vermont Avenue NW, Veterans Benefits Administration, Washington, DC 20420

Phone: 202 273–7212

Email: capdmcle2@vba.va.gov

**RIN:** 2900–AL32

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**2832. SERVICE REQUIREMENTS FOR VETERANS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 101(21), (22); 38 USC 106; 38 USC 501(a); 38 USC 1152; 38 USC 1301; 38 USC 1504; 38 USC 1832(b)(2); 38 USC 5101(i); 38 USC 5303(a), (b), (e); PL 95–126; PL 95–202; PL 102–40; . . .

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

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) is amending its service and compensation and claims 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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**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For Public Comments:**

www.regulations.gov

**Agency Contact:**

Carl Wasson, Acting Assistant Director for Loan Loan Management (261), Department of Veterans Affairs, Veterans Benefits Administration, 1800 G. Street NW, Washington, DC 20420

Phone: 202 273–7343

Email: carl.wasson@vba.va.gov

**RIN:** 2900–AL65

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**2831. LOAN GUARANTEE; LOAN SERVICING AND CLAIMS PROCEDURES MODIFICATION**

**Priority:** Other Significant

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

**CFR Citation:** 38 CFR 36.4301; 38 CFR 36.4304a; 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 containing loan servicing and claims procedures. These revisions are part of VA’s rewrite and reorganization of all of its loan servicing and claims regulations in a logical, claimant-focused, and user-friendly format.

**Timetable:**

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2833. RESERVISTS’ EDUCATION: REVISION OF ELIGIBILITY REQUIREMENTS FOR THE MONTGOMERY GI BILL—SELECTED RESERVE

Priority: Substantive, Nonsignificant

Legal Authority: 10 USC 1606; 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 21.7540; 38 CFR 21.7550; 38 CFR 38.7551

Legal Deadline: None


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URL For Public Comments: www.regulations.gov

Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (00REG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7294
Fax: 202 275–9026
Email: capbruss@vba.va.gov

RIN: 2900–AL67

2834. PRESCRIPTIONS 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) is amending its adjudication regulations that concern the presumptions of service connection for certain diseases or conditions. These revisions are 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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URL For Public Comments: www.regulations.gov

Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (00REG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7294
Fax: 202 275–9026
Email: capbruss@vba.va.gov

RIN: 2900–AL69

2835. ADJUDICATION: ACCRUED BENEFITS AND DEATH COMPENSATION BENEFITS

Priority: Other Significant

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

CFR Citation: 38 CFR 3; 38 CFR 5

Legal Deadline: None

Abstract: The Department of Veterans Affairs (VA) is amending its compensation and pension regulations relating to accrued and death compensation benefits. These revisions are 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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URL For Public Comments: www.regulations.gov

Agency Contact: Bill Russo, Chief, Regulation Rewrite Project (00REG2), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420
Phone: 202 273–7294
Fax: 202 275–9026
Email: capbruss@vba.va.gov

Related RIN: Related to 2900–AL67

RIN: 2900–AL71

2836. 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:** www.regulations.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:** lynn.nelson@vba.va.gov

**RIN:** 2900–AL79

### 2837. ELECTIONS OF IMPROVED PENSION; OLD LAW AND SECTION 306 PENSION

**Priority:** Other Significant

**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. 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:** None

**Government Levels Affected:** None

**URL For Public Comments:** www.regulations.gov

**Agency Contact:** Bill Russo, Chief, Regulation Rewrite Project (00REG2), 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

**RIN:** 2900–AL83

### 2838. DEPENDENCY AND INDEMNITY COMPENSATION: SURVIVING SPOUSE’S RATE; PAYMENTS BASED ON VETERANS ENTITLEMENT TO COMPENSATION FOR SERVICE-CONNECTION DISABILITY RATED TOTALLY DISABLING FOR SPECIFIED PERIODS

**Priority:** Other Significant

**Legal Authority:** 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 “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.

### Timetable:

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**Regulatory Flexibility Analysis Required:** No
### 2840. Presumptions of service connection for diseases associated with service involving detention or internment as a prisoner of war

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<td>38 USC 501(a); 38 USC 1112(b)</td>
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<tr>
<td><strong>CFR Citation:</strong></td>
<td>38 CFR 1.18; 38 CFR 3.309</td>
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<tr>
<td><strong>Legal Deadline:</strong></td>
<td>None</td>
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<tr>
<td><strong>Abstract:</strong></td>
<td>The Department of Veterans Affairs (VA) is amending its regulations to establish guidelines for establishing presumptions of service connection for diseases associated with service involving detention or internment as a prisoner of war. In accordance with those guidelines, this amendment also establishes presumptions of service connection for atherosclerotic and hypertensive heart disease and for stroke disease arising in former prisoners of war.</td>
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### 2841. Transfer of Montgomery GI bill—active duty entitlement to dependents

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<td><strong>Legal Authority:</strong></td>
<td>38 USC 3020; 38 USC 3015(d)(1)</td>
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<td><strong>Legal Deadline:</strong></td>
<td>None</td>
</tr>
<tr>
<td><strong>Abstract:</strong></td>
<td>This final rule amends Department of Veterans Affairs' (VA) education regulations to include rules for use of transferred Montgomery GI Bill—Active Duty (MGIB) entitlement.</td>
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### Office of Policy and Planning

#### 2842. Audits of states, local governments, and nonprofit organizations; grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations

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<td>31 USC 75; 38 USC 501; PL 98–502</td>
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<td><strong>CFR Citation:</strong></td>
<td>38 CFR 41; 38 CFR 49</td>
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<td><strong>Legal Deadline:</strong></td>
<td>None</td>
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<tr>
<td><strong>Abstract:</strong></td>
<td>This document proposes to amend part 41 of VA’s regulations to add new subparts to codify revised OMB Circular A-133. The Circular provides standards for consistency and uniformity among Federal agencies for the audits of States, local governments, and nonprofit organizations and for Federal awards. Further, this amendment proposes to add a new part 49 to VA’s regulations to bring VA in step with other Federal agencies who have already adopted OMB Circular A-110 as a common rule. The Circular provides for uniform administrative requirements for Federal agencies with grants and agreements with institutions of higher education, hospitals, and other nonprofit organizations.</td>
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Provisions in the National Defense Authorization Act for Fiscal Year 2002 permit the Department of Defense to offer individuals in the Armed Forces, who have critical military skills, the option to transfer up to 18 months of their MGIB entitlement to their dependents. The rule includes a provision in the Bob Stump National Defense Authorization Act for Fiscal Year 2003 that clarifies the rate of payment of educational assistance for dependents to whom entitlement is transferred. In addition, the rule amends regulations to reflect an increase in the maximum amount for the college fund program that was provided in the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.
2843. PAYMENT FOR NON–VA PHYSICIAN AND OTHER HEALTH CARE PROFESSIONAL SERVICES ASSOCIATED WITH EITHER OUTPATIENT OR INPATIENT CARE PROVIDED AT NON–VA FACILITIES
Priority: Other Significant
CFR Citation: 38 CFR 17.56
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<td>03/07/05</td>
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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Susan K. Schmetzer
Phone: 303 331–7552
Email: schmetzer@champva.denver.va.gov
RIN: 2900–AK94

2844. LOAN GUARANTY: PREPURCHASE COUNSELING REQUIREMENTS
Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 36.4332
Completed:
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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–AK76

2845. ADDITIONAL DISABILITY OR DEATH DUE TO HOSPITAL CARE, MEDICAL OR SURGICAL TREATMENT, EXAMINATION, TRAINING AND REHABILITATION SERVICES, OR COMPENSATED WORK THERAPY PROGRAM
Priority: Other Significant
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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: David McLenachen
Phone: 202 273–7212
Email: capdmcle2@vba.va.gov
RIN: 2900–AK77

2846. TIME LIMIT FOR REQUEST FOR DE NOVO REVIEW
Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 3.2600
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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Lynn M. Nelson
Phone: 202 273–7294
Fax: 202 275–2636
Email: lynn.nelson@vba.va.gov
RIN: 2900–AM09

2847. LOAN GUARANTY: IMPLEMENTATION OF PUBLIC LAW 107–103
Priority: Substantive, Nonsignificant
CFR Citation: 38 CFR 36.4302; 38 CFR 36.4308; 38 CFR 36.4404; 38 CFR 36.4527
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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Anne DeSena
Phone: 202 273–7368
Fax: 202 275–3523
RIN: 2900–AL23

2848. INCREASE IN RATES PAYABLE UNDER THE MONTGOMERY GI BILL—ACTIVE DUTY
Priority: Info./Admin./Other
CFR Citation: 38 CFR 21.7136; 38 CFR 21.7137
Completed:
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Regulatory Flexibility Analysis Required: No
Small Entities Affected: No
Government Levels Affected: None
Agency Contact: Lynn M. Nelson
Phone: 202 273–7294
Fax: 202 275–2636
Email: lynn.nelson@vba.va.gov
RIN: 2900–AM08

2849. • EXCLUSIONS FROM INCOME AND NET WORTH COMPUTATIONS
Priority: Substantive, Nonsignificant
Legal Authority: 38 USC 501(a); 42 USC 1395w–141
CFR Citation: 38 CFR 3.261; 38 CFR 3.262; 38 CFR 3.263; 38 CFR 3.272; 38 CFR 3.275; ...
Legal Deadline: None

Abstract: This document amends the Department of Veterans Affairs (VA) adjudication regulations to exclude from income and net worth computations in the pension and parents’ dependency and indemnity compensation programs any benefits received under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, specifically as related to the Medicare Prescription Drug Discount Card and Transitional Assistance Program. This amendment is necessary to conform the regulations to statutory provisions.

Timetable:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

URL For Public Comments: www.regulations.gov

Agency Contact: David McLenachen, Chief, Regulations Staff, Compensation and Pension Service (211A), Department of Veterans Affairs, 810 Vermont Avenue NW, Veterans Benefit Administration, Washington, DC 20420

Phone: 202 273–7212

Email: capdmcle2@vba.va.gov

RIN: 2900–AM14

2851. RELLOCATION OF NATIONAL CEMETERY REGULATIONS IN TITLE 38 CFR

Priority: Info./Admin./Other

CFR Citation: 38 CFR 1.600 to 1.633; 38 CFR 38

Completed:

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Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Karen Barber

Phone: 202 273–5183

Fax: 202 273–6697

Email: karen.barber@mail.va.gov

RIN: 2900–AM10

[FR Doc. 05–5992 Filed 05–13–05; 8:45 am]

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