

regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

**PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS**

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration order 7400.9F, *Airspace Designations and Reporting Points*, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

*Paragraph 6005: Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

**ASW TX E5 Carrizo Springs, Glass Ranch Airport, TX [New]**

Carrizo Springs, Glass Ranch Airport, TX (lat. 28°27'01" N., long. 100°09'01" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Glass Ranch Airport, excluding that airspace within Restricted Area R-6316.

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Issued in Fort Worth, TX, on September 14, 1998.

**Albert L. Viselli,**

*Acting Manager, Air Traffic Division, Southwest Region.*

[FR Doc. 98–25558 Filed 9–23–98; 8:45 am]

BILLING CODE 4910–13–M

**DEPARTMENT OF LABOR**

**Mine Safety and Health Administration**

**30 CFR Part 75**

**Mandatory Safety Standards—Underground Coal Mines**

*CFR Correction*

In Title 30 of the Code of Federal Regulations, parts 1 to 199, revised as of July 1, 1998, page 579, § 75.1909, paragraph (c)(5) is corrected to read as follows:

**§ 75.1909 Nonpermissible diesel-powered equipment; design and performance requirements.**

\* \* \* \* \*

(c) \* \* \*

(5) Has a means in the equipment operator's compartment to apply the brakes manually without shutting down the engine, and a means to release and reengage the brakes without the engine operating; and

\* \* \* \* \*

BILLING CODE 1505-01-D

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 3**

**RIN 2900-A100**

**Claims Based on Exposure to Ionizing Radiation (Prostate Cancer and Any Other Cancer)**

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) adjudication regulations concerning compensation for diseases claimed to be the result of exposure to ionizing radiation. This amendment implements a decision by the Secretary of Veterans Affairs that, based on all evidence currently available to him, prostate cancer and any other cancers may be induced by ionizing radiation. The intended effect of this action is to relieve veterans, or their survivors, seeking benefits under the provisions of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act

of the burden of having to submit evidence that a veteran's prostate cancer or any other cancer may have been induced by ionizing radiation.

**DATES:** Effective Date: September 24, 1998.

**FOR FURTHER INFORMATION CONTACT:** John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273-7230.

**SUPPLEMENTARY INFORMATION:** The Veterans' Dioxin and Radiation Exposure Compensation Standards Act, Pub. L. 98-542, required VA to develop regulations establishing standards and criteria for adjudicating veterans' claims for compensation for diseases arising from exposure to ionizing radiation during service. Pub. L. 98-542 also required that the Secretary of Veterans Affairs, after receiving the advice of the Veterans Advisory Committee on Environmental Hazards (VACEH), determine which conditions should be considered service-connected on the basis of exposure to ionizing radiation and include those conditions in VA's regulations.

In September 1985, VA published 38 CFR 3.311b, since redesignated as 3.311, to implement the radiation provisions of Pub. L. 98-542. As threshold requirements for entitlement to compensation under this regulation, a veteran must have been exposed to ionizing radiation during atmospheric testing of nuclear weapons, the occupation of Hiroshima and Nagasaki, Japan, during World War II, or through other activities as claimed, and must have subsequently developed a radiogenic disease. VA defines the term "radiogenic disease," for purposes of Pub. L. 98-542, to mean "a disease that may be induced by ionizing radiation" (38 CFR 3.311(b)(2)). Since 1985 VA has added a number of diseases to the original list of radiogenic diseases at 38 CFR 3.311(b)(2).

Once the regulation was published, VA denied claims for conditions that were not specifically listed in the regulation as radiogenic diseases. On September 1, 1994, however, the United States Court for the Federal Circuit held in *Combee v. Brown*, 34 F. 3d 1039 (Fed. Cir. 1994), that Pub. L. 98-542 did not authorize VA to establish an exclusive list of radiogenic conditions.

VA published a proposal to amend 38 CFR 3.311(b)(2) to add prostate cancer and "any other cancer" to the list of diseases VA recognizes as being radiogenic under the provisions of Pub. L. 98-542 in the **Federal Register** on September 25, 1996 (61 FR 50264-65).

Interested persons were invited to submit written comments on or before November 25, 1996. We received four comments: one from the National Council on Radiation Protection and Measurements; one from a professor of health physics at Arizona State University; and two from concerned individuals.

One commenter pointed out that the Veterans' Advisory Committee on Environmental Hazards (VACEH) considered exposure to ionizing radiation to be a contributing factor in the development of any malignancy. The commenter therefore suggested that we amend the list of radiogenic diseases to include any other "carcinoma or sarcoma" rather than "cancer," which is often synonymous with only carcinoma.

We intend to include both carcinoma and sarcoma in this rule, and in our judgment using the broadest possible term, i.e., "cancer," is the clearest way of expressing that intent. As the commenter points out, Dorland's Medical Dictionary 255 (28th ed. 1994) defines cancer as including both carcinoma and sarcoma. Furthermore, when not referring to specific conditions such as leukemia or multiple myeloma, the current list of radiogenic diseases in 38 CFR 3.311(b)(2) uses the term "cancer" of specified organs. Introducing other terminology into the rule might imply a difference that we do not intend. For these reasons, we make no change based on this suggestion.

Another commenter stated that VA should use radiation dose, rather than radiation exposure, as the index to measure the risk of a particular health outcome.

Once it is determined that a veteran has a radiogenic disease, radiation dose is a factor to be considered under 38 CFR 3.311(e)(1) in determining whether a veteran's disease resulted from exposure to ionizing radiation in service. VA obtains an assessment of the size and nature of the radiation dose to which the veteran was exposed during military service (§ 3.311(a)(2)) and considers the probable dose and several other factors in determining whether the disease resulted from that exposure (§ 3.311(e)).

One commenter stated that while prostate cancer is possibly radiogenic, the probability that it is related to virtually any level of radiation exposure is "vanishingly small." The commenter also noted that the National Institutes of Health Radioepidemiology Tables are a better means of estimating the probability that a cancer was caused by radiation with any given dose. Another commenter stated that a significant statistical association between exposure

to ionizing radiation and cancer of the oral cavity, esophagus, rectum, gall bladder, pancreas, ovary, prostate, and brain and central nervous system has not been demonstrated. The commenter pointed out that, according to the Hiroshima and Nagasaki Life Span Study, compiled by the United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR), the excess relative risks for these cancers are not statistically different from zero. The commenter also relies upon an analysis of the risk of cancer in Japanese survivors of the atomic bombings, prepared by the Radiation Effects Research Foundation, that supports the UNSCEAR findings that these cancers are not induced by exposure to ionizing radiation.

As explained in the notice of proposed rulemaking, when the Secretary of Veterans Affairs determines that a significant statistical association exists between a disease and exposure to ionizing radiation, and after receiving the advice of the VACEH, and applying the reasonable doubt doctrine as set forth in 38 CFR 1.17(d)(1), the regulations regarding service connection must be amended. A "significant statistical association" exists when "it is at least as likely as not that the purported relationship between a particular type of exposure and a specific adverse health effect exists." (38 CFR 1.17(d)(1)). In addition, according to 38 CFR 3.17(f), a significant statistical association may be deemed to exist "if, in the Secretary's judgment, scientific and medical evidence on the whole supports such a decision."

The VACEH concluded in April 1995 that it would be appropriate to consider prostate cancer as being associated with radiation exposure. The VACEH also expressed its agreement with the statement "[o]n the basis of current scientific knowledge, exposure to ionizing radiation can be a contributing factor in the development of a malignancy." We therefore believe that the Secretary's decision to add prostate cancer and any other cancer to the list of radiogenic diseases in 38 CFR 3.311(b)(2) is supported by scientific and medical evidence.

We note as well that VA's inquiry does not end once it is determined that the claimant meets the threshold requirements of 38 CFR 3.311(b)(1). VA then obtains an assessment of the size and nature of the radiation dose to which the veteran was exposed during military service. In determining whether the disease resulted from that exposure, VA considers: the probable dose in terms of dose type, rate and duration as a factor in inducing the disease; the

relative sensitivity of the involved tissue; gender and pertinent family history; age at time of exposure; the time-lapse between exposure and onset of the disease; and the extent to which exposure to radiation, or other carcinogens, outside of service may have contributed to development of the disease.

VA appreciates the comments submitted in response to the proposed rule which, based on the rationale set forth in the proposal and this document, is now adopted without change.

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this final rule does not directly affect any small entities. Only VA beneficiaries are directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of section 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.109, and 64.110.

#### List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: June 15, 1998.

**Togo D. West, Jr.,**

*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

#### PART 3—ADJUDICATION

##### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.311, paragraph (b)(2)(xxi) is amended by removing "and"; and paragraph (b)(2)(xxii) is amended by removing "." and adding, in its place, ";"; and new paragraphs (b)(2)(xxiii) and (b)(2)(xxiv) are added to read as follows:

##### § 3.311 Claims based on exposure to ionizing radiation.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(xxiii) Prostate cancer; and

(xxiv) Any other cancer.

\* \* \* \* \*

[FR Doc. 98-25546 Filed 9-23-98; 8:45 am]

BILLING CODE 8320-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 97-168; RM-9103 and RM-9182]

#### Radio Broadcasting Services; Arcadia & Ellington, MO, Carbondale, IL & Tiptonville, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** Action in this document allots Channel 280A to Arcadia, Missouri, as that community's first local service in response to a petition filed by Iron County Broadcasting Company. See 62 FR 42225, August 6, 1997. The coordinates for Channel 280A at Arcadia are 37-32-30 and 90-43-00. There is a site restriction 9.3 kilometers (5.8 miles) southwest of the community. In response to the counterproposal filed by Lyle Broadcasting Corporation, we will substitute Channel 268C1 for Channel 268B at Carbondale, Illinois, at coordinates 37-37-00 and 89-38-30 and modify the license for Station WCIL accordingly. To accommodate the allotments at Arcadia and Carbondale, we will substitute Channel 294A for Channel 280A at Ellington, Missouri, at coordinates 37-13-27 and 90-51-13 and modify the construction permit for Station KAUL to specify Channel 294A. We shall also put a new site restriction on vacant Channel 267C3 at Tiptonville, Tennessee, using coordinates 36-19-41 and 89-23-18. With this action, this proceeding is terminated. A filing window for Channel 280A at Arcadia, Missouri, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

**EFFECTIVE DATE:** November 2, 1998.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 97-168, adopted September 9, 1998, and released September 18, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the

Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857-3800, facsimile (202) 857-3805.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.  
Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

#### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Arcadia, Channel 280A and by removing Channel 280A and adding Channel 294A at Ellington.

3. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by removing Channel 268B and adding Channel 268C1 at Carbondale.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 98-25559 Filed 9-23-98; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[DOT Docket No. NHTSA-98-4463]

RIN: 2127-AG55

#### Federal Motor Vehicle Safety Standards; Metric Conversion

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule, technical amendments; response to petition for reconsideration.

**SUMMARY:** On May 27, 1998, NHTSA published a final rule amending selected Federal Motor Vehicle Safety Standards (FMVSSs) by converting English measurements specified in those standards to metric measurements. In this document, NHTSA corrects typographical and other errors in the May 1998 final rule. This document also responds to a

petition for reconsideration filed by Toyota, and public comments by the Truck Manufacturers Association and Ford to correct typographical errors in the final rule. The corrections of errors in this final rule are not intended to make any changes in the stringency of the affected FMVSSs.

**DATES:** This final rule is effective May 27, 1999. Optional early compliance with the changes made in this final rule is permitted beginning September 24, 1998.

**ADDRESSES:** Petitions for reconsideration of this final rule should refer to the docket and notice number cited in the heading of this final rule and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. It is requested, but not required, that 10 copies be submitted.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dorothy Nakama, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Rm. 5219, Washington, DC 20590. Ms. Nakama's e-mail address is: [dnakama@nhtsa.dot.gov](mailto:dnakama@nhtsa.dot.gov) and her telephone number is: (202) 366-2992.

**SUPPLEMENTARY INFORMATION:** On May 27, 1998 (63 FR 28922), NHTSA published in the **Federal Register** a final rule revising selected Federal Motor Vehicle Safety Standards by converting English measurements specified in those standards to metric measurements. The final rule was one of several rulemaking actions that NHTSA is undertaking to implement the Federal policy that the metric system of measurement is the preferred system of weights and measures for United States trade and commerce. The converted figures are not intended to make any substantive changes in the stringency of the affected FMVSSs.

Upon reviewing the **Federal Register** publication, NHTSA noted certain typographical and other errors in the amended regulatory text and in Tables or Figures. NHTSA also received a petition for reconsideration from Toyota and public comments from the Truck Manufacturers Association and Ford noting additional errors in the final rule. In this final rule, NHTSA will correct errors in the following standards as described below:

#### NHTSA's Changes to the Final Rule

*Standard No. 101, Controls and displays*—NHTSA noted that S5 does not reflect the current version of the regulatory text. Also, at the bottom of Table 1, footnote 5 should include the word "filled," not "filed" as appeared in the final rule.