

designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard Vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 16, 2000.

**David P. Pekoske,**

*Captain, U.S. Coast Guard, Captain of the Port, Group/Marine Safety Office Long Island Sound.*

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

RIN 2900-AK04

#### The Veterans Millennium Health Care and Benefits Act

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends Department of Veterans Affairs (VA) adjudication regulations to reflect changes made by the Veterans Millennium Health Care and Benefits Act. These changes concern payment of dependency and indemnity compensation to the surviving spouses of certain former prisoners of war; the provision of health care, education and home loan benefits to surviving spouses upon termination of their remarriages; and the addition of bronchiolo-alveolar carcinoma to the list of diseases that VA presumes are the result of exposure to radiation during active military service.

**DATES:** *Effective Dates:* The amendments to 38 CFR 3.22 and 3.309 are effective November 30, 1999. The amendment to 38 CFR 3.55 is effective December 1, 1999.

**FOR FURTHER INFORMATION CONTACT:** Bill Russo (211), Attorney-Advisor, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273-7210.

**SUPPLEMENTARY INFORMATION:** On November 30, 1999, the President signed into law the Veterans Millennium Health Care and Benefits Act, Pub. L. 106-117 (the Act). Three provisions of the Act directly affect the payment of VA benefits. These provisions concern: (1) Payment of dependency and indemnity compensation (DIC) to the surviving spouses of certain former prisoners of

war (POWs); (2) provision of health care, education and home loan benefits to surviving spouses upon termination of their remarriages; and (3) addition of bronchiolo-alveolar carcinoma to the list of diseases that VA presumes are the result of exposure to radiation during active military service.

DIC benefits are generally payable to the survivors of veterans who died from their service-connected disabilities. In addition, 38 U.S.C. 1318 authorizes VA to pay DIC benefits to survivors of veterans whose deaths were not service-connected but who were continuously rated totally disabled due to service-connected disabilities for ten years or more immediately preceding the veteran's death, or for five years from the date of such veteran's discharge. Section 501 of Pub. L. 106-117 authorizes payment of DIC to the survivors of former POWs who died after September 30, 1999, and who were continuously rated totally disabled due to a service-connected disability for a period of not less than one year immediately preceding death. This provision is effective November 30, 1999, the date of enactment. This document amends 38 CFR 3.22, to reflect this change.

In 1998, Pub. L. 105-178 restored eligibility to DIC to a surviving spouse of a veteran if that person's subsequent remarriage had been terminated by death or divorce, or if a subsequent relationship had been terminated. Eligibility to DIC was restored effective October 1, 1998. This law restored eligibility only to DIC. Eligibility to ancillary benefits—including VA Civilian Health Care and Medical Program (CHAMPVA), chapter 35 education, and home loan guaranty benefits—was not restored.

Section 502 of Pub. L. 106-117 restores eligibility to health care benefits under 38 U.S.C. chapter 17 (CHAMPVA), education benefits under chapter 35, and home loan guaranty benefits under chapter 37 to a surviving spouse if his or her remarriage has been terminated by death or divorce, or if a surviving spouse has ceased living with another person and holding himself or herself out openly to the public as that person's spouse. Section 502 states that its changes shall take effect on the first day of the first month beginning after the month in which the Act is enacted, *i.e.*, December 1, 1999. This document amends 38 CFR 3.55 to reflect these changes.

Section 503 of the Act adds bronchiolo-alveolar carcinoma to the list of diseases that VA presumes result from exposure to radiation during active military service. This provision of the

law is effective November 30, 1999. This document amends 38 CFR 3.309(d) to reflect these changes.

The Secretary hereby certifies that this regulatory amendment 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. These amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 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 28, 2000.

**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. Section 3.22 is amended by:

A. In paragraph (a)(2)(i), removing the word "or" after the semi-colon at the end of the paragraph.

B. In paragraph (a)(2)(ii), removing the period at the end of the paragraph and adding, in its place, "; or".

C. Adding paragraph (a)(2)(iii) to read as follows:

**§ 3.22 DIC benefits for survivors of certain veterans rated totally disabled at the time of death.**

(a) \* \* \*

(2) \* \* \*

(iii) Rated by VA as totally disabling for a continuous period of not less than one year immediately preceding death, if the veteran was a former prisoner of war who died after September 30, 1999. (Authority: 38 U.S.C. 1318(b))

\* \* \* \* \*

3. Section 3.55 is amended by redesigning paragraphs (a)(4), (a)(5), and

(a)(6) as paragraphs (a)(5), (a)(6) and (a)(8), respectively; and adding new paragraphs (a)(4) and (a)(7) to read as follows:

**§ 3.55 Reinstatement of benefits eligibility based upon terminated marital relationships.**

(a) \* \* \*

(4) On or after December 1, 1999, remarriage of a surviving spouse terminated by death, divorce, or annulment, will not bar the furnishing of benefits relating to medical care for survivors and dependents under 38 U.S.C. 1713, educational assistance under 38 U.S.C. chapter 35, or housing loans under 38 U.S.C. chapter 37, unless the Secretary determines that the divorce or annulment was secured through fraud or collusion.

(Authority: 38 U.S.C. 103(d))

\* \* \* \* \*

(7) On or after December 1, 1999, the fact that a surviving spouse has lived with another person and has held himself or herself out openly to the public as the spouse of such other person will not bar the furnishing of benefits relating to medical care for survivors and dependents under 38 U.S.C. 1713, educational assistance under 38 U.S.C. chapter 35, or housing loans under 38 U.S.C. chapter 37 to the surviving spouse if he or she ceases living with such other person and holding himself or herself out openly to the public as such other person's spouse.

(Authority: 38 U.S.C. 103(d)).

\* \* \* \* \*

4. Section 3.309 is amended by adding paragraph (d)(2)(xvi) and an authority citation after the Note to read as follows:

**§ 3.309 Disease subject to presumptive service connection.**

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(xvi) Bronchiolo-alveolar carcinoma.

\* \* \* \* \*

(Authority: 38 U.S.C. 1112(c)(2))

[FR Doc. 00-17901 Filed 7-13-00; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[FRL-6729-7]

**Finding of Failure To Submit a Required State Implementation Plan for Carbon Monoxide; Anchorage, AK**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Finding of Failure to Submit.

**SUMMARY:** EPA is taking final action in making a finding, under the Clean Air Act (CAA or Act), that Alaska failed to make a carbon monoxide (CO) nonattainment area state implementation plan (SIP) submittal required for Anchorage under the Act. Under certain provisions of the Act, states are required to submit SIPs providing for, among other things, reasonable further progress and attainment of the CO national ambient air quality standards (NAAQS) in areas classified as serious. The deadline for submittal of this plan for Anchorage was January 13, 2000. This action triggers the 18-month time clock for mandatory application of sanctions and the two-year time clock for a federal implementation plan (FIP) under the Act. This action is consistent with the CAA mechanism for assuring SIP submissions.

**EFFECTIVE DATE:** This action is effective as of July 13, 2000.

**ADDRESSES:** Written comments should be addressed to: Ms. Debra Suzuki, Office of Air Quality (OAQ-107), EPA, 1200 Sixth Avenue, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** John Pavitt, U.S. EPA, Region 10, Alaska Operations Office, 222 W. 7th Avenue, #19, Anchorage, Alaska 99513-7588, Telephone (907) 271-5083.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The CAA Amendments of 1990 were enacted on November 15, 1990. Under section 107(d)(1)(c) of the amended CAA, each CO area designated nonattainment prior to enactment of the 1990 Amendments, such as the Anchorage area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of the Act, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either "moderate" or "serious" depending on the severity of the area's air quality problem. CO areas with design values

between 9.1 and 16.4 parts per million (ppm), such as the Anchorage area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56846 (November 6, 1991).

(1) The CO nonattainment area is the "Anchorage Area, Anchorage Election District (part), Anchorage nonattainment area boundary." 40 CFR 81.302.

States containing areas that were classified as moderate nonattainment by operation of law under section 107(d) were required to submit SIPs designed to attain the CO NAAQS as expeditiously as practicable but no later than December 31, 1995. Under section 186(a)(4), Alaska requested and EPA granted a one-year extension of the December 31, 1995 attainment deadline (61 FR 33676, June 28, 1996).

(2) The moderate area SIP requirements are set forth in section 187(a) of the Act and differ depending on whether the area's design value is above or below 12.7 ppm. The Anchorage area has a design value above 12.7 ppm. 40 CFR 81.302.

Anchorage exceeded the CO NAAQS three times during calendar year 1996. On June 12, 1998, EPA made a final finding that the Anchorage CO nonattainment area did not attain the CO NAAQS under the CAA-mandated attainment date after having received a one-year extension from the mandated attainment date of December 31, 1995 for moderate nonattainment areas to December 31, 1996. As a result of that finding, which went into effect on July 13, 1998, (63 FR 32128, June 12, 1998) the Anchorage, Alaska CO nonattainment area was reclassified as serious. The State had 18 months or until January 13, 2000 to submit a new State Implementation Plan (SIP) demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000, the CAA attainment date for serious areas. Anchorage complied with the CO NAAQS in 1997, 1998, and 1999, with one or fewer exceedances recorded in each of these years, and no exceedances in the year 2000 to date.

The Alaska Department of Environmental Conservation (ADEC) and the Municipality of Anchorage (MOA) have been conducting local research aimed at quantifying the impact of motor vehicle cold start emissions and warm-up idling on ambient CO in Anchorage. The local research program included: (1) A CO saturation monitoring study to better characterize the nature of the CO problem in Anchorage's neighborhoods and near major roadways; (2) a driver