

paragraph for determining resident payments. If he or she determines that the payments are too high or too low by more than 5 percent of the total operating budget, he or she shall recalculate resident payments under the criteria set forth above, except that the calculations shall be based on the current fiscal year (actual amounts for the elapsed portion and projected amounts for the remainder).

(2) If the revenues of a residence do not meet the expenses of the residence resulting in an inability to pay actual operating expenses, the medical center of jurisdiction shall provide the funds necessary to return the residence to fiscal solvency in accordance with the provisions of this section.

(e) The length of stay in housing under the Compensated Work Therapy/ Transitional Residences program is based on the individual needs of each resident, as determined by consensus of the resident and his/her VA Clinical Treatment team. However, the length of stay should not exceed 12 months.

(Authority: 38 U.S.C. 1772)

[FR Doc. 01-5404 Filed 3-5-01; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 19

RIN 2900-AK62

#### Appeals Regulations: Title for Members of the Board of Veterans' Appeals

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the Department of Veterans Affairs' (VA) Appeals Regulations to provide that a Member of the Board of Veterans' Appeals (Board) may also be known as a Veterans Law Judge. A companion document in the "Rules and Regulations" section of this issue of the **Federal Register** contains other actions regarding this matter.

**DATES:** Comments must be received on or before May 7, 2001.

**ADDRESSES:** Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273-9289; or e-mail comments to [OGCRegulations@mail.va.gov](mailto:OGCRegulations@mail.va.gov). Comments should indicate that they are submitted in response to "RIN 2900-AK62." All comments received will be

available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Steven L. Keller, Senior Deputy Vice Chairman (01C), Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202-565-5978).

**SUPPLEMENTARY INFORMATION:** The Board is an administrative body that decides appeals from denials of claims for veterans' benefits, after an opportunity for a hearing. There are currently 59 Board "Members," who decide 35,000 to 40,000 such appeals per year.

Board Members other than the Chairman are appointed by the Secretary of Veterans Affairs, with the approval of the President of the United States, 38 U.S.C. 7101A(a)(1), and must be licensed attorneys, 38 U.S.C. 7101A(a)(2). Board Members are compensated at rates equivalent to the rates payable to Administrative Law Judges, 38 U.S.C. 7101A(b).

In a document published in the **Federal Register** on September 14, 2000 (65 FR 55461), we amended VA's Appeals Regulations by providing that a Member of the Board may also be known as a Veterans Law Judge. Consistent with legal authority, we published the amendment without providing an opportunity for notice-and-comment. Six veterans service organizations in a letter to the Acting Secretary opposed the amendment and argued that they should have been provided an opportunity to comment before we made such a change. Under these circumstances, in a companion document in the "Rules and Regulations" section of this issue of the **Federal Register** we rescinded the amendment. However, in this document we are proposing to amend the regulations to again provide that a Member of the Board may also be known as a Veterans Law Judge.

This proposal to allow the use of the title Veterans Law Judge is based on the following analyses.

Throughout the Executive Branch, individuals who decide appeals at the administrative level after the opportunity for a hearing—as do Board Members—are known as "judges." *E.g.*, "Administrative Law Judges," 5 U.S.C. 3105; "Administrative Appeals Judges" at the Benefits Review Board at the Department of Labor, 20 CFR 801.2; "Administrative Judges" at The Financial Assistance Appeals Board of the Department of Energy, 10 CFR 1024.3; "Administrative Judges" at the

Equal Employment Opportunity Commission, 29 CFR 1614.109; "Administrative Judges" at the Personnel Appeals Board of the General Accounting Office, 4 CFR 28.3; "Administrative Judges" at the Merit Systems Protection Board, 5 CFR 1201.4; "Administrative Judges" at the National Aeronautics and Space Administration, 14 CFR 1259.404; and "Administrative Judges" at the Office of Hearings and Appeals, Small Business Administration, 13 CFR 134.101. *See also* "Administrative Appeals Judges" at the Office of Hearings and Appeals of the Social Security Administration, 20 CFR 416.924(g) (decide appeals from decisions of administrative law judges, but without the opportunity for a hearing); "Immigration Judges" at the Executive Office for Immigration Review in the Department of Justice, 8 CFR 1.1(l) (initial decisions in immigration cases).

In our view, the title Veterans Law Judge would convey a Board Member's function to veterans more accurately than the term "Member." In addition, we believe that the title would enhance the confidence of veterans in the administrative appellate process by providing recognition that appeals in the VA system are adjudicated by legal professionals, as are benefit appeals in other administrative systems.

The letter from the six veterans service organizations asserted that VA could not accomplish through regulation what Congress chose not to do by statute. We are aware of no legal authority to support this view. The letter from the six veterans service organizations also opposed the proposed change by arguing that the title Veterans Law Judge "will intimidate veterans and could lead them to believe the agency is more concerned with formality rather than deciding claims in a non-adversarial setting." The comments from the six veterans service organizations will be considered in connection with any other comments received in response to this proposed rule.

#### Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501-3520).

#### Executive Order 12866

This document has been reviewed by the Office of Management and Budget under Executive Order 12866.

#### Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a

significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This proposed rule does not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

#### List of Subjects in 38 CFR Part 19

Administrative practice and procedure, Claims, Veterans.

Dated: February 21, 2001.

**Anthony J. Principi,**  
*Secretary of Veterans Affairs.*

For the reasons set out in the preamble, we propose to amend 38 CFR part 19 as set forth below:

#### PART 19—BOARD OF VETERANS' APPEALS: APPEALS REGULATIONS

1. The authority citation for part 19 continues to read as follows:

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

2. Section 19.2 is revised to read as follows:

##### § 19.2 Composition of the Board; Titles.

(a) The Board consists of a Chairman, Vice Chairman, Deputy Vice Chairmen, Members and professional, administrative, clerical and stenographic personnel. Deputy Vice Chairmen are Members of the Board who are appointed to that office by the Secretary upon the recommendation of the Chairman.

(b) A Member of the Board (other than the Chairman) may also be known as a Veterans Law Judge. An individual designated as an acting Member pursuant to 38 U.S.C. 7101(c)(1) may also be known as an acting Veterans Law Judge.

(Authority: 38 U.S.C. 501(a), 512, 7101(a)).  
[FR Doc. 01–5452 Filed 3–5–01; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 63

[AD–FRL–6950–9]

RIN 2060–AC28

#### Ethylene Oxide Emissions Standards for Sterilization Facilities

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

**ACTION:** Proposed amendments.

**SUMMARY:** This proposal amends the emission standards for sterilization facilities by eliminating maximum achievable control technology (MACT) requirements for chamber exhaust vents. This action is being proposed to eliminate safety problems associated with the existing requirements. This proposal also amends testing and monitoring requirements for sterilization chamber, aeration, and chamber exhaust vents. Specific testing and monitoring requirements are being removed or simplified to correct technical problems associated with the existing requirements.

**DATES:** Submit comments on or before May 7, 2001.

**Public hearing.** If anyone contacts the EPA requesting to speak at a public hearing by March 26, 2001, a public hearing will be held on April 5, 2001.

**ADDRESSES:** *Comments.* Written comments should be submitted (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–88–03, U.S. EPA, 401 M Street, SW, Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

**Docket.** Docket No. A–88–03 contains supporting information used in developing the standards. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460, in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

**Public Hearing.** If a public hearing is held, it will be held at 10 a.m. in the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

**FOR FURTHER INFORMATION CONTACT:** David Markwordt, Policy, Planning, and Standards Group, Emission Standards Division, (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–0837, electronic mail address [markwordt.david@epa.gov](mailto:markwordt.david@epa.gov).

##### SUPPLEMENTARY INFORMATION:

**Comments.** Comments and data may be submitted by electronic mail (e-mail) to: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov). Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect® version 5.1, 6.1 or Corel 8 file format. All comments and data submitted in electronic form must note the Docket No. A–88–03. No

confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: David Markwordt, C/O OAQPS Document Control Officer, U.S. Environmental Protection Agency, 411 W. Chapel Hill Street, (Room 740B), Durham NC 27701. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenters.

**Public Hearing.** Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Dorothy Apple, Policy, Planning, and Standards Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–4487 at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Dorothy Apple to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards amendments.

**Docket.** The docket is an organized and complete file of all the information we considered in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act (CAA)). The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260–