



# Federal Register

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**Monday,  
June 28, 2004**

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**Part XVII**

**Department of  
Veterans Affairs**

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**Semiannual Regulatory Agenda**

**DEPARTMENT OF VETERANS AFFAIRS (VA)**

**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

2004. 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:** Gloria Armstrong at (202) 273-9515.

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

**Robert C. McFetridge,**  
*Director, Regulations Management.*

Department of Veterans Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2927	Patients Rights .....	2900-AL66
2928	Use of VA Form 10-10EZR and Signature of Requirements for Certain VA Forms .....	2900-AL91
2929	Beneficiary Travel Under 38 U.S.C. 111 .....	2900-AM02
2930	Eligibility for Health Care Benefits for Certain Filipino Veterans in the United States .....	2900-AM03
2931	Education Provisions of the Veterans Programs Enhancement Act of 1998 .....	2900-AJ68
2932	Veterans and Dependents Education: Topping-Up Tuition Assistance; Licensing and Certification Tests; Duty To Assist Education Claimants .....	2900-AK80
2933	Survivors' and Dependents' Educational Assistance Program Eligibility Period for Eligible Children and Other Miscellaneous Issues .....	2900-AL44
2934	Loan Guaranty: Assistance to Certain Disabled Veterans in Acquiring Specially Adapted Housing .....	2900-AL58
2935	Loan Guaranty; Loan Servicing and Claims Procedures Modification .....	2900-AL65
2936	Presumptions of Service Connection for Certain Disabilities, and Related Matters .....	2900-AL70
2937	Adjudication: Accrued Benefits and Death Compensation Benefits .....	2900-AL71
2938	Burial Benefits .....	2900-AL72
2939	Rules on Apportionments to Dependents, Payments to Fiduciaries and Incarcerated Beneficiaries .....	2900-AL74
2940	Regulations Related to Payments and Adjustments to Payments .....	2900-AL75
2941	Claims Based on Service in the Philippine Armed Forces .....	2900-AL76
2942	Vocational Rehabilitation and Employment Program—Statutory Amendments, U.S. Court of Appeals for Veterans Claims Decisions, Policy Revisions, and Reader-focused Plain English Regulations .....	2900-AL78
2943	Duties of VA; Rights and Responsibilities of Claimants and Beneficiaries .....	2900-AL82
2944	Elections of Improved Pension; Old Law and Section 306 Pension .....	2900-AL83
2945	Special and Ancillary Benefits for Veterans, Dependents and Survivors .....	2900-AL84
2946	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 .....	2900-AL86
2947	General Provisions .....	2900-AL87
2948	Special Ratings .....	2900-AL88
2949	Dependency and Indemnify Compensation Benefits .....	2900-AL89
2950	Loan Guaranty: Amendments to Hybrid Adjustable Rate Mortgages .....	2900-AL92
2951	Dependents of Veterans .....	2900-AL94
2952	Payments to Beneficiaries Who Are Eligible for More Than One Benefit .....	2900-AL95
2953	General Evidence Requirements, Effective Dates, Revision of Decisions, and Protection of Existing Ratings .....	2900-AM01
2954	Department of Veterans Affairs Acquisition Regulations Plain Language Rewrite .....	2900-AK78
2955	Audits of States, Local Governments, and Nonprofit Organizations; Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations .....	2900-AJ62

## VA

## Department of Veterans Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2956	Advanced Health Care Planning .....	2900-AJ28
2957	Grants to States for Construction and Acquisition of State Home Facilities .....	2900-AJ43
2958	Waivers .....	2900-AK29
2959	Payment for Non-VA Physician Services Associated With Either Outpatient or Inpatient Care Provided at Non-VA Facilities .....	2900-AK94
2960	Priorities for Outpatient Medical Services and Inpatient Hospital Care .....	2900-AL39
2961	Copayments for Extended Care Services .....	2900-AL49
2962	Enrollment-Provision of Hospital and Outpatient Care to Veterans—Subpriorities of Priority Categories 7 and 8 and Enrollment Level Decision .....	2900-AL51
2963	Sensori-Neural Aids .....	2900-AL60
2964	VA Homeless Providers Grant and Per Diem Program; Religious Organizations .....	2900-AL63
2965	Medication Prescribed by Non-VA Physicians .....	2900-AL68
2966	Federal Policy for the Protection of Human Subjects Technical Amendment .....	2900-AL99
2967	Total Disability Evaluations Based on Inability of the Individual To Engage in Substantially Gainful Employment .....	2900-AH21
2968	Schedule for Rating Disabilities—The Eye .....	2900-AH43
2969	Claims Based on Aggravation of Nonservice-Connected Disability .....	2900-AL42
2970	Definition of Psychosis for Certain VA Purposes .....	2900-AK21
2971	Filipino Veterans' Benefit Improvements .....	2900-AK65
2972	Loan Guaranty: Prepurchase Counseling Requirements .....	2900-AK76
2973	Additional Disability or Death Due to Hospital Care, Medical or Surgical Treatment, Examination, Training and Rehabilitation Services, or Compensated Work Therapy Program .....	2900-AK77
2974	Time Limit for Request for De Novo Review .....	2900-AK97
2975	Exceptions to Definition of Date of Receipt Based on Special or Unforeseen Circumstances .....	2900-AL12
2976	Loan Guaranty: Implementation of Public Law 107-103 .....	2900-AL23
2977	Schedule for Rating Disabilities; Guidelines for Application of Evaluation Criteria for Certain Respiratory and Cardiovascular Conditions; Evaluation of Hypertension With Heart Disease .....	2900-AL26
2978	Veterans Education: Veterans Education and Benefits Expansion Act of 2001 .....	2900-AL28
2979	Schedule for Rating Disabilities; Evaluation of Multiple Scars .....	2900-AL32
2980	Administration of VA Education Benefits—Centralized Certification .....	2900-AL43
2981	Loan Guaranty: Hybrid Adjustable Rate Mortgages .....	2900-AL54
2982	Compensation for Certain Cases of Bilateral Deafness .....	2900-AL59
2983	Increase Rates Payable Under the Survivor's and Dependent's Education Assistant Program .....	2900-AL64
2984	Service Requirements for Veterans .....	2900-AL67
2985	Reservists' Education: Revision of Eligibility Requirements for the Montgomery GI Bill-Selected Reserve .....	2900-AL69
2986	Veterans Education: Nonpayment of VA Educational Assistance to Fugitive Felons .....	2900-AL79
2987	Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve .....	2900-AL80
2988	Veterans Education: Increased Allowances for the Educational Assistance Text Program .....	2900-AL81
2989	Presumption of Sound Condition: Aggravation of a Disability by Active Service .....	2900-AL90
2990	Changes to 38 CFR 3.809 for Specially Adapted Housing Eligibility for Recipients for Compensation Under 38 CFR 3.358 .....	2900-AL98
2991	Board of Veterans' Appeals: Obtaining Evidence and Curing Procedural Defects .....	2900-AL77
2992	Board of Veterans' Appeals: Appeal Regulations; Rules of Practice; Delegations of Authority .....	2900-AL96
2993	Board of Veterans' Appeals: Clarification of A Notice of Disagreement .....	2900-AL97
2994	Eligibility for Burial in National Cemetery for Surviving Spouses Who Remarry and New Philippine Scouts .....	2900-AM00
2995	Standards for Collection, Compromise, Suspension, or Termination of Collection Effort, and Referral of Civil Claims for Money or Property; Regional Office Committees on Waivers and Compromises; Salary .....	2900-AK10

## Department of Veterans Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2996	Reasonable Charges for Medical Care or Services; 2003 Methodology Changes .....	2900-AL06
2997	Charges Used for Recovery From Tortiously Liable Third Parties for Medical Care or Services Provided by the Department of Veterans Affairs .....	2900-AL48
2998	Reasonable Charges for Medical Care or Services; 2003 Update .....	2900-AL57
2999	Schedule for Rating Disabilities—The Musculoskeletal System .....	2900-AE91
3000	Schedule for Rating Disabilities—Neurological Conditions and Convulsive Disorders .....	2900-AF23

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Department of Veterans Affairs—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
3001	Schedule for Rating Disabilities—Digestive System .....	2900-AF24
3002	Governmentwide Debarment and Suspension (Nonprocurement) and Requirement for Drug-Free Workplace (Assistance) .....	2900-AK16
3003	Schedule for Rating Disabilities; Malignant Neoplasms .....	2900-AL27
3004	Testimony Certified or Under Oath .....	2900-AL38
3005	Annual Risk Allowance for Servicemembers' Group Life Insurance and Veterans' Group Life Insurance .....	2900-AL56
3006	New and Material Evidence .....	2900-AL73
3007	Delegation of Authority—Property Management Contractor .....	2900-AL85
3008	Changes of Effective Date of Rule Adding a Disease Associated With Exposure to Certain Herbicide Agents: Type 2 Diabetes .....	2900-AL93
3009	Implementing the Health Insurance Portability and Accountability Act (HIPAA) .....	2900-AL53
3010	Board of Veterans' Appeals Regulations; Rules of Practice .....	2900-AE78
3011	The Board of Veterans' Appeals; Rules of Practice—Motion for Review of Decisions on Grounds of Clear and Unmistakable Error .....	2900-AJ85
3012	Rules of Practice: Medical Opinions From the Veterans Health Administration .....	2900-AK52
3013	Board of Veterans' Appeals Rules of Practice: Notice Procedures Relating to Withdrawal of Services by a Representative .....	2900-AL45
3014	State Cemetery Grants .....	2900-AH46
3015	Eligibility for Appropriate Government Marker for a Grave Already Marked at Private Expense .....	2900-AL40

Department of Veterans Affairs (VA)

Proposed Rule Stage

VETERANS HEALTH ADMINISTRATION

2927. PATIENTS RIGHTS

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 38 USC 501; 38 USC 1721

**CFR Citation:** 38 CFR 17.33

**Legal Deadline:** None

**Abstract:** This document proposes to amend the Department of Veterans Affairs' medical regulations that set forth patients' rights to clarify that it is legally permissible for VA patients to receive medication prescribed by any health care professional legally authorized to prescribe medication.

**Timetable:**

Action	Date	FR Cite
NPRM	08/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

**Agency Contact:** Audrey Crenshaw Drake, Program Director Nursing (108),

Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420

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 Email: audrey.drake@mail.va

**RIN:** 2900-AL66

2928. • USE OF VA FORM 10-10EZR AND SIGNATURE OF REQUIREMENTS FOR CERTAIN VA FORMS

**Priority:** Substantive, Nonsignificant. Major status under 5 USC 801 is undetermined.

**Legal Authority:** 38 USC 501; 38 USC 1721

**CFR Citation:** 38 CFR 17.36

**Legal Deadline:** None

**Abstract:** This document proposes to permit already-enrolled veterans to use a new, shorter form when they wish to update their enrollment information previously reported. The new, shorter form will decrease the information collection burden on veterans and will save them time when they are updating their financial information for VA. This document also proposes an amendment to establish who can sign VA administrative health care forms when the veteran is unable to do so. Finally,

this document proposes to remove the photocopy of VA Form 10-10EZ, Application for Health Benefits, from parts 17 and 58 of 38 CFR.

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

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

Phone: 202 254-0329  
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**RIN:** 2900-AL91

2929. • BENEFICIARY TRAVEL UNDER 38 U.S.C. 111

**Priority:** Other Significant

**Legal Authority:** 38 USC 111

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**CFR Citation:** 38 CFR 17.143; 38 CFR 17.144; 38 CFR 17.145; 38 CFR 70 (new)

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs proposes to revise its beneficiary travel regulations authorized under 38 USC 111. These regulations are intended to provide a mechanism for paying travel expenses to help veterans and other persons obtain services from the Veterans Health Administration.

**Timetable:**

Action	Date	FR Cite
NPRM	10/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

**Agency Contact:** Tony Guagliardo, Chief Business Office (16), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420  
Phone: 202 254-0406

**RIN:** 2900-AM02

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

**Priority:** Substantive, Nonsignificant

**Legal Authority:** PL 108-170

**CFR Citation:** 38 CFR 17.39

**Legal Deadline:** None

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

authorized to implement these provisions under the "Veterans Health Care, Capital Asset, and Business Improvement Act of 2003," Public Law 108-170.

**Timetable:**

Action	Date	FR Cite
NPRM	10/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

**Agency Contact:** Kendra V. Drew, Management and Program Analyst (16), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420  
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**RIN:** 2900-AM03

**VETERANS BENEFITS ADMINISTRATION**

**2931. 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

**CFR Citation:** 38 CFR 21.4145; 38 CFR 21.4200; 38 CFR 21.4206; 38 CFR 21.4262

**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	Date	FR Cite
NPRM	01/00/05	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

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

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**RIN:** 2900-AJ68

**2932. 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

**CFR Citation:** 38 CFR 21.1029 to 21.1033; 38 CFR 21.4005; 38 CFR 21.4008; 38 CFR 21.4009; 38 CFR 21.4146

**Legal Deadline:** None

**Abstract:** Regulations implementing provisions of the Veterans Benefits and Health Care Improvement Act of 2000, Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, and the Veterans Claims Assistance Act of 2000 that affect VA education benefits programs. These provisions include payment under Survivors' and Dependents' Educational Assistance Program, Post-Vietnam Era Veterans Educational Assistance Program, and 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

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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:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

**Agency Contact:** William G. Susling Jr., Assistant Director for Policy and Program Development (225), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420

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**RIN:** 2900-AK80

### 2933. 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 - 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:**

Action	Date	FR Cite
NPRM	11/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

**Agency Contact:** Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420  
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**RIN:** 2900-AL44

### 2934. 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:**

Action	Date	FR Cite
NPRM	01/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:**  
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**Agency Contact:** Robert D. Finneran, Assistant Director for Policy and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420  
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**RIN:** 2900-AL58

### 2935. LOAN GUARANTY; LOAN SERVICING AND CLAIMS PROCEDURES MODIFICATION

**Priority:** Substantive, Nonsignificant

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

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

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	06/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For Public Comments:**  
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**RIN:** 2900-AL65

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

**Priority:** Substantive, Nonsignificant

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

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

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) proposes to amend its

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adjudication regulations that concern the presumptions of service connection for certain diseases or conditions, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

**Timetable:**

Action	Date	FR Cite
NPRM	07/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**RIN:** 2900-AL70**2937. ADJUDICATION: ACCRUED BENEFITS AND DEATH COMPENSATION BENEFITS****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 501(a); 38 USC 1121 and 1122; 31 USC 3329 and 3330; 38 USC 5101; 38 USC 5121; ...**CFR Citation:** 38 CFR 3; 38 CFR 5**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**Related RIN:** Related to 2900-AL67**RIN:** 2900-AL71**2938. BURIAL BENEFITS****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 101(2); 38 USC 501; 38 USC 2301-05; 38 USC 2307-08; 38 USC 5101; 38 USC 5303(c); 38 USC 6103 -05**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 monetary burial benefits, currently found in 38 CFR part 3, and to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulations@mail.va.gov

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

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**Related RIN:** Related to 2900-AL67**RIN:** 2900-AL72**2939. RULES ON APPORTIONMENTS TO DEPENDENTS, PAYMENTS TO FIDUCIARIES AND INCARCERATED BENEFICIARIES****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 501; 38 USC 5101; 38 USC 5110; 38 USC 5112; 38 USC 5307; 38 USC 5313B**CFR Citation:** 38 CFR 3; 38 CFR 5**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**Related RIN:** Related to 2900-AL67**RIN:** 2900-AL74**2940. REGULATIONS RELATED TO PAYMENTS AND ADJUSTMENTS TO PAYMENTS****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 501; 38 USC 1151; 38 USC 1161; 38 USC 1312; 38 USC 1317; 38 USC 1521; 38 USC 5103; 38 USC 5103; 38 USC 5110; 38 USC 5112; 38 USC 5301; 38 USC 5304 and, 5305; 42 USC 2210 (note)

VA

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**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 relate to setting the rates of payments, adjustments and resumptions of payments, and elections between benefits, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

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

Phone: 202 273-9216

Fax: 202 275-9026

Email: capbruss@vba.va.gov

**Related RIN:** Related to 2900-AL67

**RIN:** 2900-AL75

### 2941. 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; ...

**Legal 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, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

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

Phone: 202 273-9216

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Email: capbruss@vba.va.gov

**Related RIN:** Related to 2900-AL67

**RIN:** 2900-AL76

### 2942. • VOCATIONAL REHABILITATION AND EMPLOYMENT PROGRAM—STATUTORY 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 veterans or servicemember to a program of rehabilitation services to overcome or lessen the effect of that impairment. Some proposed revisions correct earlier language that did not properly interpret the intent of the statute. Other proposed revisions to the

regulations are intended to simplify program administration. Finally, the document proposes a completely rewritten text of subpart A in reader-focused plain English for improved readability.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

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

Phone: 202 273-7412

**RIN:** 2900-AL78

### 2943. • DUTIES OF VA; RIGHTS AND RESPONSIBILITIES OF CLAIMANTS AND BENEFICIARIES

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 1154; 38 USC 1822; 38 USC 5101; 38 USC 5103(a); 38 USC 5104; 38 USC 5109; 38 USC 5112(a); 38 USC 5125; 38 USC 5304; 38 USC 5701(b); ...

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

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None



VA

Proposed Rule Stage

**URL For Public Comments:**

varegulations@mail.va.gov

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

Phone: 202 273-9216

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Email: capbruss@vba.va.gov

**Related RIN:** Related to 2900-AL67**RIN:** 2900-AL82**2944. • ELECTIONS OF IMPROVED PENSION; OLD LAW AND SECTION 306 PENSION****Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 503; 38 USC 521(f); 38 USC 522; 38 USC 543; 38 USC 1312(b); 38 USC 1317(b); 38 USC 1521(i); 45 USC 228; PL 86-211; PL 86-212; PL 87-381; PL 95-588; PL 96-272

**CFR Citation:** 38 CFR 3; 38 CFR 5**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) proposes to amend its compensation and pension regulations relating to its "Old-Law" and "Section 306" pension programs, as well as its regulations concerning elections of improved pension, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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

Phone: 202 273-9216

Fax: 202 275-9026

Email: capbruss@vba.va.gov

**Related RIN:** Related to 2900-AL67**RIN:** 2900-AL83**2945. • SPECIAL AND ANCILLARY BENEFITS FOR VETERANS, DEPENDENTS AND SURVIVORS****Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 501; 10 USC 1448; 10 USC 6160; 38 USC 501(a); 38 USC 1160; 38 USC 1312; 38 USC 1323; 38 USC 1805; 38 USC 1811 to 1816; 38 USC 1821 to 1824; 38 USC 2101; 38 USC 2104; 38 USC 3501; 38 USC 5101; 38 USC 5110 to 5112; 38 USC 5304; PL 425; PL 97-377; ...

**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), currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulations@mail.va.gov

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

Phone: 202 273-9216

Fax: 202 275-9026

Email: capbruss@vba.va.gov

**Related RIN:** Related to 2900-AL67**RIN:** 2900-AL84**2946. • 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 been "entitled to receive" compensation for a disability that was rated totally disabling for a specified period prior to the veteran's death. The proposed rules would also reissue without change the Board of Veterans' Appeals rule regarding the effect of unfavorable decisions during a veteran's lifetime on claims for death benefits by the veteran's survivors.

**Timetable:**

Action	Date	FR Cite
NPRM	10/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulations@mail.va.gov

**Agency Contact:** David Joseph Barrans, Staff Attorney (022), Department of Veterans Affairs, Office of General Counsel, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 273-6320

**RIN:** 2900-AL86**2947. • GENERAL PROVISIONS****Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 101; 38 USC 501(a); 38 USC 4303(16); PL 107-116

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

VA

Proposed Rule Stage

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	08/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** [varegulations@mail.va.gov](mailto:varegulations@mail.va.gov)

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

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Email: [capbruss@vba.va.gov](mailto:capbruss@vba.va.gov)

**Related RIN:** Related to 2900-AL67

**RIN:** 2900-AL87

**2948. • SPECIAL RATINGS**

**Priority:** Substantive, Nonsignificant

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

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

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) proposed to amend its regulations relating to special ratings and ratings for health care eligibility only, currently found in part 3 of title 38 Code of Federal Regulations (CFR), and to relocate them in new 38 CFR part 5. We propose to reorganize these regulations in a more logical order, add new section and paragraph headings, rewrite certain sections and divide certain sections into two or more separate new regulations. VA's

principal goals in rewriting and reorganizing the current regulations are to provide readers with clearer language and more easily understood regulation requirements.

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** [varegulations@mail.va.gov](mailto:varegulations@mail.va.gov)

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

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**Related RIN:** Related to 2900-AL67

**RIN:** 2900-AL88

**2949. • DEPENDENCY AND INDEMNIFY COMPENSATION BENEFITS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 101(14); 38 USC 103(b); 38 USC 501(a); 38 USC 1121; 38 USC 1122(b); 38 USC 1141; 38 USC 1304; 38 USC 1310; 38 USC 1311(c), (d); 38 USC 1313; 38 USC 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, currently found 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** [varegulations@mail.va.gov](mailto:varegulations@mail.va.gov)

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

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Email: [capbruss@vba.va.gov](mailto:capbruss@vba.va.gov)

**Related RIN:** Related to 2900-AL67

**RIN:** 2900-AL89

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

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 38 CFR 36.4212

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**URL For Public Comments:** [varegulations@mail.va.gov](mailto:varegulations@mail.va.gov)

**Agency Contact:** Anne DeSena, Assistant Director for Loan Policy and Valuation (262), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 273-7368

Fax: 202 275-3523

**RIN:** 2900-AL92

VA

Proposed Rule Stage

**2951. • DEPENDENTS OF VETERANS****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 101(3); 38 USC 101(31); 38 USC 103(c); 38 USC 5110(f); 38 USC 5112; PL 91-376; PL 93-527; PL 101-508; PL 102-86**CFR Citation:** 38 CFR 3; 38 CFR 5**Legal Deadline:** None**Abstract:** The Department of Veterans Affairs proposes to amend its compensation and pension regulations relating to dependents of veterans, currently found in 38 CFR part 3, and plans to relocate them to new 38 CFR part 5. 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:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulations@mail.va.gov

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

Phone: 202 273-9216

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Email: capbruss@vba.va.gov

**Related RIN:** Related to 2900-AL67**RIN:** 2900-AL94**2952. • PAYMENTS TO BENEFICIARIES WHO ARE ELIGIBLE FOR MORE THAN ONE BENEFIT****Priority:** Substantive, Nonsignificant**Legal Authority:** 10 USC 1174; 10 USC 12316; 38 USC 501(a); 38 USC 1501(a); 38 USC 5104; 38 USC 5110; 38 USC 5304; 42 USC 2210 note**CFR Citation:** 38 CFR 3; 38 CFR 5**Legal Deadline:** None**Abstract:** The Department of Veterans Affairs (VA) proposes to amend its adjudication regulations relating to the payments to beneficiaries who are eligible for more than one benefit, currently found in 38 CFR part 3, and

plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

**Timetable:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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

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**Related RIN:** Related to 2900-AL67**RIN:** 2900-AL95**2953. • GENERAL EVIDENCE REQUIREMENTS, EFFECTIVE DATES, REVISION OF DECISIONS, AND PROTECTION OF EXISTING RATINGS****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 111; 38 USC 501(a); 38 USC 1110; 38 USC 1117; 38 CFR 1131; 38 CFR 1155; 38 CFR 1159; 38 CFR 5104; 38 CFR 5110; 38 CFR 5112; ...**CFR Citation:** 38 CFR 3; 38 CFR 5**Legal Deadline:** None**Abstract:** The Department of Veterans Affairs proposes to amend its compensation and pension regulations that apply to general evidence requirements, general effective dates for new awards, revision of decisions, and protection of existing ratings, for purposes of compensation and pension benefits, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension rules in a logical, claimant-focused, and user-friendly format.**Timetable:**

Action	Date	FR Cite
NPRM	09/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulation@mail.va.gov

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

Phone: 202 273-9216

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Email: capbruss@vba.va.gov

**RIN:** 2900-AM01**OFFICE OF ACQUISITION AND MATERIEL MANAGEMENT****2954. DEPARTMENT OF VETERANS AFFAIRS ACQUISITION REGULATIONS PLAIN LANGUAGE REWRITE****Priority:** Info./Admin./Other**Legal Authority:** 38 USC 501; 48 USC 486(c)**CFR Citation:** 38 CFR 8**Legal Deadline:** None**Abstract:** This rulemaking action would amend the Department of Veterans Affairs acquisition regulation to update position titles, to remove obsolete or duplicative material, to delegate authority, and to make plain language revisions to the text. In addition, the rule would update material to correspond to the requirements of the Federal Acquisition Regulation (FAR) and would provide agency procedures for compliance with FAR requirements.**Timetable:**

Action	Date	FR Cite
NPRM	10/00/04	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulations@mail.va.gov

**Agency Contact:** Donald E. Kaliher, Senior Procurement Analyst (0495A), Department of Veterans Affairs, Office of Acquisition & Materiel Management, 810 Vermont Avenue NW, Washington, DC 20420

VA

Proposed Rule Stage

Phone: 202 273-8819  
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 RIN: 2900-AK78

**OFFICE OF POLICY AND PLANNING**

**2955. AUDITS OF STATES, LOCAL GOVERNMENTS, AND NONPROFIT ORGANIZATIONS; GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NONPROFIT ORGANIZATIONS**

**Priority:** Substantive, Nonsignificant  
**Legal Authority:** 31 USC 75; 38 USC 501; PL 98-502  
**CFR Citation:** 38 CFR 41; 38 CFR 49  
**Legal Deadline:** None

**Abstract:** 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 expending 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.

**Timetable:**

Action	Date	FR Cite
NPRM	07/00/04	

**Regulatory Flexibility Analysis Required:** No

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

**Government Levels Affected:** Local, State

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

**Agency Contact:** John A. Corso, Senior Procurement Analyst (95A), Acquisition Policy Team, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420  
 Phone: 202 273-8818  
 Email: john.corso@mail.va.gov

**RIN:** 2900-AJ62

**Department of Veterans Affairs (VA)**

Final Rule Stage

**VETERANS HEALTH ADMINISTRATION**

**2956. ADVANCED HEALTH CARE PLANNING**

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

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

**Timetable:**

Action	Date	FR Cite
NPRM	11/02/98	63 FR 58677
NPRM Comment Period End	01/04/99	
Final Action	01/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

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

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

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

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

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	06/26/01	66 FR 33845
Interim Final Rule Comment Period End	08/27/01	
Final Action	12/00/04	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** State

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

**Agency Contact:** Frank Salvas, Geriatrics and Extended Care (114), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420  
 Phone: 202 273-8536

**RIN:** 2900-AJ43

VA

Final Rule Stage

**2958. WAIVERS****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 1722A; PL 106-117**CFR Citation:** 38 CFR 17.105**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) proposes to amend its medical regulations to give Fiscal Officers at VA medical facilities the authority to waive veterans' debts arising from the medical care copayments. These proposed changes codify an existing 1995 delegation of authority to Fiscal Officers from the Secretary of Veterans Affairs; the purpose of this 1955 delegation was to increase the efficiency of the waiver processing.

**Timetable:**

Action	Date	FR Cite
NPRM	04/20/04	69 FR 21075
NPRM Comment Period End	06/21/04	
Final Action	12/00/04	

**Regulatory Flexibility Analysis****Required:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulations@mail.va.gov

**Agency Contact:** Tony Guagliardo, Chief Business Office (16), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW, Washington, DC 20420  
Phone: 202 254-0406

**RIN:** 2900-AK29**2959. PAYMENT FOR NON-VA PHYSICIAN SERVICES ASSOCIATED WITH EITHER OUTPATIENT OR INPATIENT CARE PROVIDED AT NON-VA FACILITIES****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 501**CFR Citation:** 38 CFR 17.56**Legal Deadline:** None

**Abstract:** This document amends the Department of Veterans Affairs (VA) medical regulations concerning payment for non-VA physician services that are associated with either outpatient or inpatient care provided to eligible VA beneficiaries at non-VA facilities. Currently, 38 CFR 17.56 requires all VA facilities to reimburse for non-VA physician services based

upon the Centers for Medicare and Medicaid Services (CMS) physician fee schedule in effect at the time the services are provided. However, it has been determined that special circumstances exist in the State of Alaska. Since a large portion of VA health care provided in Alaska is obtained from non-VA sources, this could negatively impact the quality of care provided veterans living in that State. Therefore, to ensure that the amounts paid to physicians better represent the local cost to furnish a service and to achieve program cost reduction, VA is proposing through this document that an Alaska-specific payment methodology be established for inpatient and outpatient non-VA physician services with that State.

**Timetable:**

Action	Date	FR Cite
NPRM	07/29/03	68 FR 44507
NPRM Comment Period End	09/29/03	
Final Action	01/00/05	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulations@mail.va.gov

**Agency Contact:** Susan K. Schmetzer, Chief, Policy and Strategic Planning, Health Administration Center, Department of Veterans Affairs, 300 South Jackson Street, Denver, CO 80209  
Phone: 303 331-7552  
Email: schmetzer@champva.denver.va.gov

**RIN:** 2900-AK94**2960. PRIORITIES FOR OUTPATIENT MEDICAL SERVICES AND INPATIENT HOSPITAL CARE****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 101; 38 USC 501; 38 USC 1705; 38 USC 1710; PL 104-262**CFR Citation:** 38 CFR 17.49**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs is amending its medical regulations to establish that, in scheduling appointments for non-emergency outpatient medical services and admissions for inpatient hospital care, VA will give priority to veterans with service-connected disabilities

rated 50 percent or greater and veterans needing care for a service-connected disability. The Veterans' Eligibility Reform Act of 1996 authorizes VA to ensure that these two categories of veterans receive priority access to this type of care. The intended effect of this rule is to carry out that authority.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	09/17/02	67 FR 58528
Interim Final Rule Effective	09/17/02	
Interim Final Rule Comment Period End	11/18/02	
Final Action	07/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulations@mail.va.gov

**Agency Contact:** Ruth Hoffman, Office of the Assistant Deputy Secretary for Health (10A5A), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue, Washington, DC 20420  
Phone: 202 273-8934

**RIN:** 2900-AL39**2961. COPAYMENTS FOR EXTENDED CARE SERVICES****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 1710B**CFR Citation:** 38 CFR 17.111**Legal Deadline:** None

**Abstract:** This document proposes to amend VA's medical regulations concerning copayments for extended care services provided or furnished by VA to veterans for nonservice-connected disabilities. This document amends the regulations to enhance the spousal protection provisions covering assets. This change would bring VA closer to State medical assistance policies in protecting spouses from potential impoverishment.

**Timetable:**

Action	Date	FR Cite
NPRM	10/16/03	68 FR 54557
NPRM Comment Period End	12/15/03	
Final Action	09/00/04	

**Regulatory Flexibility Analysis****Required:** No

**Small Entities Affected:** No  
**Government Levels Affected:** None  
**URL For Public Comments:**  
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**RIN:** 2900-AL49

**2962. ENROLLMENT-PROVISION OF HOSPITAL AND OUTPATIENT CARE TO VETERANS—SUBPRIORITIES OF PRIORITY CATEGORIES 7 AND 8 AND ENROLLMENT LEVEL DECISION**

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

**Legal 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 1/17/2003 an interim final rule amending VA's medical regulations at 38 CFR part 17 to establish additional subpriorities within enrollment priority categories 7 & 8, and to provide that beginning 1/17/03, 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 and this document, VA is adopting the provisions of the interim final rule as a final rule without change.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	01/17/03	68 FR 2670
Interim Final Rule Effective	01/17/03	
Interim Final Rule Comment Period End	03/18/03	
Final Action	09/00/04	

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

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 varegulations@mail.va.gov

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 Phone: 202 273-8934

**RIN:** 2900-AL51

**2963. SENSORI-NEURAL AIDS**

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 1707

**CFR Citation:** 38 CFR 17.149

**Legal Deadline:** None

**Abstract:** This document amends Department of Veterans Affairs (VA) medical regulations concerning sensori-neural aids. 38 CFR section 17.149 authorizes VA to provide sensori-neural aids (i.e., eyeglasses, contact lenses, hearing aids) to seven groups of veterans as identified in the regulation in section 17.149, paragraphs (b)(1)-(b)(7). The veterans presently identified in section 17.149, paragraph (b)(2), are veterans who are former prisoners of war. Section 17.149, paragraph (b)(2), will be revised to include veterans who were awarded the Purple Heart. It will also note that the authority for this regulation, previously identified as 38 U.S.C. 1701(6)(A)(i), has been recodified as 38 U.S.C. 1707 pursuant to Public Law No. 107-135.

**Timetable:**

Action	Date	FR Cite
NPRM	07/31/03	68 FR 44913
NPRM Comment Period End	09/29/03	
Final Action	07/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal

**URL For Public Comments:**  
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**RIN:** 2900-AL60

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

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 38 CFR 61.64

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	09/30/03	68 FR 56426
NPRM Comment Period End	10/30/03	
Final Action	06/08/04	69 FR 31883
Final Action Effective	07/08/04	

**Regulatory Flexibility Analysis Required:** No

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

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

**URL For Public Comments:**  
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**RIN:** 2900-AL63

VA

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**2965. MEDICATION PRESCRIBED BY NON-VA PHYSICIANS****Priority:** Other Significant**Legal Authority:** 38 USC 1706; 38 USC 1710; 38 USC 1712(d); 38 USC 1721**CFR Citation:** 38 CFR 17.96**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs is amending its medical regulations that govern the provision of medication to veterans when the medication is prescribed by non-VA physicians. The rule provides that, in limited circumstances, VA may provide medication prescribed by a non-VA physician to veterans enrolled in VA's health-care system prior to July 25, 2003, if the veterans have requested an initial appointment for primary care in a VA health care facility before July 25, 2003, and were unable to obtain an initial appointment for primary care within 30 days. The rule establishes specific requirements that veterans must meet to receive such medication, and it establishes limits on the types and quantities of medication VA may provide. VA's intent is to assist enrolled veterans who have requested primary care appointments but who have not been able to obtain one within 30 days.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	07/25/03	68 FR 43927
Interim Final Rule Effective	07/25/03	
Interim Final Rule Comment Period End	08/25/03	
Final Action	12/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**RIN:** 2900-AL68**2966. FEDERAL POLICY FOR THE PROTECTION OF HUMAN SUBJECTS TECHNICAL AMENDMENT****Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 301; 38 CFR 501; 42 USC 289; 42 USC 300v-1(b)**CFR Citation:** 38 CFR 16**Legal Deadline:** None

**Abstract:** This final rule amends the Department of Veterans Affairs regulations for the protection of human subjects by changing all references to the Office for Protection from Research Risks (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 amendments is being made in conjunction with the other federal departments and agencies that have promulgated the Federal Policy for the Protection of Human Subjects.

**Timetable:**

Action	Date	FR Cite
Final Action	09/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**RIN:** 2900-AL99**VETERANS BENEFITS ADMINISTRATION****2967. TOTAL DISABILITY EVALUATIONS BASED ON INABILITY OF THE INDIVIDUAL TO ENGAGE IN SUBSTANTIALLY GAINFUL EMPLOYMENT****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 501(a); 38 USC 512(a); 38 USC 1110; 38 USC 1131; 38 USC 1155; 38 USC 1502; 38 USC 1521(a)**CFR Citation:** 38 CFR 3.321; 38 CFR 3.340; 38 CFR 3.341; 38 CFR 3.342; 38 CFR 4.16; 38 CFR 4.17; 38 CFR 4.18**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:**

Action	Date	FR Cite
NPRM	10/01/01	66 FR 49886
NPRM Comment Period End	11/30/01	
Final Action	04/00/05	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**RIN:** 2900-AH21**2968. SCHEDULE FOR RATING DISABILITIES—THE EYE****Priority:** Other Significant**Legal Authority:** 38 USC 1155**CFR Citation:** 38 CFR 4.75**Legal Deadline:** None

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**Abstract:** The Department of Veterans Affairs (VA) is amending that portion of its Schedule for Rating Disabilities that addresses disabilities of the eye. The intended effect of this action is to update this portion of the rating schedule to ensure that it uses current medical terminology and unambiguous criteria and that it reflects medical advances that have occurred since the last review.

**Timetable:**

Action	Date	FR Cite
NPRM	05/11/99	64 FR 25246
NPRM Comment Period End	07/12/99	
Final Action	12/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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Phone: 202 273-7211

**RIN:** 2900-AH43**2969. 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.

**Timetable:**

Action	Date	FR Cite
NPRM	06/04/97	62 FR 30547
NPRM Comment Period End	08/04/97	
Final Action	10/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**RIN:** 2900-AI42**2970. DEFINITION OF PSYCHOSIS FOR CERTAIN VA PURPOSES****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 501(a)**CFR Citation:** 38 CFR 3.384**Legal Deadline:** None

**Abstract:** This document amends the Department of Veterans Affairs adjudication regulations to define the term "psychosis." The term is used but not defined in certain statutes that provide presumptive service connection for compensation or health care purposes.

**Timetable:**

Action	Date	FR Cite
NPRM	10/11/02	67 FR 63352
NPRM Comment Period End	12/10/02	
Final Action	12/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**RIN:** 2900-AK21**2971. FILIPINO VETERANS' BENEFIT IMPROVEMENTS****Priority:** Other Significant**Legal Authority:** 38 USC 107**CFR Citation:** 38 CFR 3.8; 38 CFR 3.10; 38 CFR 3.1600**Legal Deadline:** None

**Abstract:** This document amends the Department of Veterans Affairs (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.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	12/27/01	66 FR 66763
Interim Final Rule Effective	12/27/01	
Interim Final Rule Comment Period End	02/25/02	
Final Action	09/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**Related RIN:** Related to 2900-AL76**RIN:** 2900-AK65**2972. LOAN GUARANTY: PREPURCHASE COUNSELING REQUIREMENTS****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 501; 38 USC 3203; 38 USC 3210; 38 USC 3220**CFR Citation:** 38 CFR 36.4332**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs is amending its loan guaranty



VA

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regulations to require that all first-time homebuyers seeking to obtain VA guaranteed home loans complete 3 hours of homeowners' counseling.

**Timetable:**

Action	Date	FR Cite
NPRM	10/11/01	66 FR 51893
NPRM Comment Period End	12/10/01	
Final Action	12/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**RIN:** 2900-AK76

**2973. 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**Legal Authority:** 38 USC 1151

**CFR Citation:** 38 CFR 3.154; 38 CFR 3.358; 38 CFR 3.361; 38 CFR 3.362; 38 CFR 3.363; 38 CFR 3.400; 38 CFR 3.708; 38 CFR 3.800

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) is amending its adjudication regulations concerning awards of compensation or dependency and indemnity compensation for additional disability or death caused by VA hospital care, medical or surgical treatment, examination, training and rehabilitation services, or compensated work therapy (CWT) program. Under this amendment, benefits are payable for additional disability or death caused by hospital care, medical or surgical treatment, or examination only if VA is at fault or "an event not reasonably foreseeable" proximately caused the disability or death. Benefits also are payable for additional disability or

death proximately caused by VA's provision of training and rehabilitation services or CWT program. This amendment reflects amendments to 38 U.S.C. 1151, the statutory authority for such benefits.

**Timetable:**

Action	Date	FR Cite
NPRM	12/12/02	67 FR 76322
NPRM Comment Period End	02/10/03	
Final Action	09/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**RIN:** 2900-AK77

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

**Priority:** Substantive, Nonsignificant**Legal Authority:** Not Yet Determined**CFR Citation:** None**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	03/11/02	67 FR 10866
NPRM Comment Period End	05/10/02	
Final Action	01/00/05	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**RIN:** 2900-AK97

**2975. 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 3.1(r)**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Final Action	07/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**RIN:** 2900-AL12

VA

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**2976. LOAN GUARANTY:  
IMPLEMENTATION OF PUBLIC LAW  
107-103****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 501(a); 38 USC 2102; 38 USC 3703(a)(1) and (c)(1); 38 USC 3714(d); 38 USC 3761**CFR Citation:** 38 CFR 36.4302; 38 CFR 36.4308; 38 CFR 36.4404; 38 CFR 36.4527**Legal Deadline:** None

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

**Timetable:**

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

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:** [varegulations@mail.va.gov](mailto:varegulations@mail.va.gov)

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Phone: 202 273-7368  
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**RIN:** 2900-AL23**2977. SCHEDULE FOR RATING  
DISABILITIES; GUIDELINES FOR  
APPLICATION OF EVALUATION  
CRITERIA FOR CERTAIN  
RESPIRATORY AND  
CARDIOVASCULAR CONDITIONS;  
EVALUATION OF HYPERTENSION  
WITH HEART DISEASE****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 1155**CFR Citation:** 38 CFR 4.104**Legal Deadline:** None

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

**Timetable:**

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

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:** [varegulations@mail.va.gov](mailto:varegulations@mail.va.gov)

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**RIN:** 2900-AL26**2978. VETERANS EDUCATION:  
VETERANS EDUCATION AND  
BENEFITS EXPANSION ACT OF 2001****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 3511; 38 USC 3512; 38 USC 3540; 38 USC 3543; 38 USC 3672; 38 USC 3675; 38 USC 3680A; 38 USC 3011(c)**CFR Citation:** 38 CFR 21.3045; 38 CFR 21.3046; 38 CFR 21.3104; 38 CFR 21.3300; 38 CFR 21.3301; 38 CFR 21.3302; 38 CFR 21.3303; 38 CFR 21.3305; 38 CFR 21.3306**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Final Action	04/00/05	

**Regulatory Flexibility Analysis Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:** [varegulations@mail.va.gov](mailto:varegulations@mail.va.gov)

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**RIN:** 2900-AL28**2979. SCHEDULE FOR RATING  
DISABILITIES; EVALUATION OF  
MULTIPLE SCARS****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 1155**CFR Citation:** 38 CFR 4.118**Legal Deadline:** None

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**Abstract:** The Department of Veterans Affairs is amending its Schedule for Rating Disabilities; Multiple Scars. The current rating schedule provides an evaluation level of 10% under Diagnostic Code 7803 for multiple superficial unstable scars and an evaluation level of 10% under Diagnostic Code 7804 for multiple superficial painful scars. The current rating schedule provides no guidance on whether each painful or each unstable scar no matter how small or close together should be separately evaluated. The current rating schedule is silent as to whether one scar can be rated more than once under diagnostic codes 7802, 7803 and/or 7804. This regulatory amendment replaces the concept of "widely separated areas" by defining and using the concept of "separate anatomical location." This regulatory amendment instructs adjudicators in the following: how to evaluate scars which traverse separate anatomical locations; how to evaluate multiple scars in a separate anatomical locations; how to evaluate scars which satisfy evaluation criteria for two or more of the following diagnostic codes: 7802, 7803 and 7804; and how to evaluate multiple scars of the head, face and neck where there is also disfigurement in this area. Each diagnostic code has been 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 neckregion."

**Timetable:**

Action	Date	FR Cite
NPRM	10/29/02	67 FR 65915
NPRM Comment Period End	12/30/02	
Final Action	12/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 2900-AL32

### 2980. ADMINISTRATION OF VA EDUCATION BENEFITS— CENTRALIZED CERTIFICATION

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 38 CFR 21.4266

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	06/30/03	68 FR 38657
NPRM Comment Period End	09/29/03	
Final Action	04/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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**RIN:** 2900-AL43

### 2981. LOAN GUARANTY: HYBRID ADJUSTABLE RATE MORTGAGES

**Priority:** Substantive, Nonsignificant

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

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

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	10/09/03	68 FR 58293
NPRM Comment Period End	11/10/03	
Final Action	12/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

**Agency Contact:** 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  
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Email: lgyrfinn@vba.va.gov

**RIN:** 2900-AL54

### 2982. COMPENSATION FOR CERTAIN CASES OF BILATERAL DEAFNESS

**Priority:** Substantive, Nonsignificant

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

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

**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) proposes to amend its

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

**Timetable:**

Action	Date	FR Cite
Final Action	10/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

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

Phone: 202 273-7211  
Email: capbmcco@vba.va.gov

**RIN:** 2900-AL59

### 2983. INCREASE RATES PAYABLE UNDER THE SURVIVOR'S AND DEPENDENT'S EDUCATION ASSISTANT PROGRAM

**Priority:** Substantive, Nonsignificant

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

**CFR Citation:** 38 CFR 21.3045; 38 CFR 21.3131; 38 CFR 21.3333

**Legal Deadline:** None

**Abstract:** This document amends the regulations governing rates of education assistance payable under the Survivors' and Dependents' Educational Assistance (DEA) program to reflect increases required by statutory

provisions. The rates of education assistance payable under the DEA program are changed to show a 1.5 percent increase for fiscal year 2003 (October 1, 2002, through September 30, 2003) and 2.2 percent increase for fiscal year 2004 (October 1, 2003, through September 30, 2004).

**Timetable:**

Action	Date	FR Cite
Final Action	09/00/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

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

**RIN:** 2900-AL64

### 2984. 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 compensation and pension regulations relating to service requirements for veterans, currently found in 38 CFR part 3, and plans to relocate them in new 38 CFR part 5. These revisions are proposed as part of VA's rewrite and reorganization of all of its compensation and pension regulations in a logical, claimant-focused, and user-friendly format.

**Timetable:**

Action	Date	FR Cite
NPRM	01/30/04	69 FR 4820
NPRM Comment Period End	03/30/04	
Final Action	06/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

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

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

**RIN:** 2900-AL67

### 2985. 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 21.1032; 38 CFR 21.7540; 38 CFR 21.7550; 38 CFR 21.7551

**Legal Deadline:** None

**Abstract:** This document amends the regulations governing the administration of the Montgomery GI Bill-Selected Reserve (MGIB-SR) program. The amendments implement provisions in the Veterans Benefits and Health Care Improvement Act of 2000 and the Bob Stump National Defense Authorization Act for Fiscal Year 2003. The Veterans Benefits and Health Care Improvement Act of 2000 contained a provision that changed an eligibility criterion concerning the time for obtaining a high school diploma. The Bob Stump National Defense Authorization Act for Fiscal Year 2003 expanded the MGIB-SR eligibility period from 10 years to 14 years for reservists who first become eligible after September 30, 1992.

**Timetable:**

Action	Date	FR Cite
Final Action	04/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

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

**RIN:** 2900-AL69

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

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 10 USC 5315B

**CFR Citation:** 38 CFR 21.3135; 38 CFR 21.4131; 38 CFR 21.4135; 38 CFR 21.4200; 38 CFR 21.7020; 38 CFR 21.7131; 38 CFR 21.7135

**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:**

Action	Date	FR Cite
Final Action	04/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

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

**RIN:** 2900-AL79

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

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 10 USC 16131(b)

**CFR Citation:** 38 CFR 21.7636

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Final Action	01/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

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

**RIN:** 2900-AL80

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

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 10 USC 16131(b)

**CFR Citation:** 38 CFR 21.7636

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Final Action	01/00/05	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

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

**Agency Contact:** Lynn M. Nelson, Education Advisor (225C), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420  
Phone: 202 273-7294  
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**RIN:** 2900-AL81

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

**Priority:** Substantive, Nonsignificant

**Legal Authority:** 38 USC 501; 38 USC 1111

**CFR Citation:** 38 CFR 3.304

**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Final Action	10/00/04	

**Regulatory Flexibility Analysis Required:** No

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**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulations@mail.va.gov

**Agency Contact:** Randy A. McKeivitt, Consultant, C&P Service (211A), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW, Washington, DC 20420

Phone: 202 273-7211

Fax: 202 273-1728

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**RIN:** 2900-AL90**2990. • CHANGES TO 38 CFR 3.809 FOR SPECIALLY ADAPTED HOUSING ELIGIBILITY FOR RECIPIENTS FOR COMPENSATION UNDER 38 CFR 3.358****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 1151**CFR Citation:** 38 CFR 3.358; 38 CFR 3.809**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs is amending its adjudication regulations to provide entitlement to specially adapted housing for veterans who are permanently and totally disabled and entitled to compensation as if service-connected due to disability from hospitalization or surgical treatment, examination or vocational rehabilitation training and are otherwise eligible. This amendment is necessary to implement the decision of the United State Court of Appeals for the Federal Circuit in *Kilpatrick v. Principi*, 16 Vet. App. 1 (2002). The effect of this amendment is to allow veterans who are permanently and totally disabled as a result of medical treatment or vocational rehabilitation to obtain specially adapted housing benefits.

**Timetable:**

Action	Date	FR Cite
Final Action	08/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

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**Agency Contact:** Randy A. McKeivitt, Consultant, C&P Service (211A),

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Email: caprmcke@vba.va.gov

**RIN:** 2900-AL98**BOARD OF VETERANS APPEALS****2991. BOARD OF VETERANS' APPEALS: OBTAINING EVIDENCE AND CURING PROCEDURAL DEFECTS****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 501(a); 38 USC 7102; 38 USC 7103(c); 38 USC 7104(a); 38 USC 7105; 38 USC 7105A; 38 USC 7109(c)**CFR Citation:** 38 CFR 19.9; 38 CFR 19.38; 38 CFR 20.3; 38 CFR 20.903; 38 CFR 20.1304; ...**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
NPRM	12/11/03	68 FR 69062
NPRM Comment Period End	01/12/04	
Final Action	08/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulations@mail.va.gov

**Agency Contact:** Steven L. Keller, Senior Deputy Vice Chairman, Department of Veterans Affairs, Boardof Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420  
Phone: 202 565-5978**RIN:** 2900-AL77**2992. • BOARD OF VETERANS APPEALS: APPEAL REGULATIONS; RULES OF PRACTICE; DELEGATIONS OF AUTHORITY****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 501; 38 USC 7101; 38 USC 7102; PL 103-271**CFR Citation:** 38 CFR 19.14; 38 CFR 20.102; 38 CFR 20.606; 38 CFR 20.608**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Final Action	12/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Steven L. Keller, Senior Deputy Vice Chairman, Board of Veterans Appeals, 810 Vermont Avenue NW, Washington, DC 20420  
Phone: 202 565-5978**RIN:** 2900-AL96**2993. • BOARD OF VETERANS' APPEALS: CLARIFICATION OF A NOTICE OF DISAGREEMENT****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 7105**CFR Citation:** 38 CFR 19.26; 38 CFR 19.29**Legal Deadline:** None

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

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	10/00/04	

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**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulations@mail.va.gov

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

**RIN:** 2900-AL97**NATIONAL CEMETERY SYSTEM****2994. • ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERY FOR SURVIVING SPOUSES WHO REMARRY AND NEW PHILIPPINE SCOUTS****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 CFR 107; PL 108-183**CFR Citation:** 38 CFR 1.620**Legal Deadline:** None

**Abstract:** This final rule amends the Department of Veterans Affairs regulations to implement sections 212 and 502 of the statutory provisions of the Veterans Benefits Act of 2003 (Pub L. No. 108-183). The provisions of the Veterans Benefits Act of 2003 allow VA to extend eligibility for burial in a national cemetery to a remarried surviving spouse, based on his or her marriage to an eligible veteran, whose death occurred on or after January 1, 2000. Additionally, the amendment recognizes the eligibility for burial of New Philippine Scouts, who lawfully resided in the United States, and whose

death occurred on or after December 16, 2003. We are also adding 38 U.S.C. 107 as an authority citation to 38 CFR 1.620, which defines active service eligibility for Philippine veterans. Further, we are making changes to the format of 38 CFR 1.620(e) and (h) to provide better organization and clarity.

**Timetable:**

Action	Date	FR Cite
Final Action	09/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulations@mail.va.gov

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

**RIN:** 2900-AM00**OFFICE OF FINANCIAL MANAGEMENT****2995. STANDARDS FOR COLLECTION, COMPROMISE, SUSPENSION, OR TERMINATION OF COLLECTION EFFORT, AND REFERRAL OF CIVIL CLAIMS FOR MONEY OR PROPERTY; REGIONAL OFFICE COMMITTEES ON WAIVERS AND COMPROMISES; SALARY****Priority:** Other Significant**Legal Authority:** 31 USC 3700 et seq; 38 USC 501; 38 USC 5302; 38 USC 5314; 38 USC 5315; ...**CFR Citation:** 31 CFR 900 to 904; 38 CFR 1.900 to 1.970**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs (VA) is amending its regulations on debt collection by eliminating some and cross-referencing the remainder to the revised DOJ/Treasury Governmentwide Federal Claims Collection Standards (31 CFR parts 900 to 904). These regulations are updated to comply with the Debt Collection Improvement Act of 1996. In addition, VA is amending those regulations pertaining to the administration of our Regional Office Committees on Waivers and Compromises.

**Timetable:**

Action	Date	FR Cite
NPRM	12/29/03	68 FR 74893
NPRM Comment Period End	02/27/04	
Final Action	12/00/04	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**URL For Public Comments:**

varegulations@mail.va.gov

**Agency Contact:** Peter T. Mulhern,  
Office of Finance (047GC1), Department  
of Veterans Affairs, 810 Vermont  
Avenue NW, Washington, DC 20420  
Phone: 202 273-5570  
TDD Phone: 202 273 6574

**RIN:** 2900-AK10**Department of Veterans Affairs (VA)****Completed Actions****2996. REASONABLE CHARGES FOR MEDICAL CARE OR SERVICES; 2003 METHODOLOGY CHANGES****Priority:** Other Significant. Major under 5 USC 801.**CFR Citation:** 38 CFR 17.101**Completed:**

Reason	Date	FR Cite
NPRM	10/02/03	68 FR 56876

Reason	Date	FR Cite
Final Action	12/19/03	68 FR 70714
Final Action Effective	12/19/03	

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** David Cleaver

Phone: 202 254-0361

**Related RIN:** Related to 2900-AJ30, Related to 2900-AK39, Related to 2900-AK73**RIN:** 2900-AL06

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

Priority: Other Significant

CFR Citation: 38 CFR 17.101; 38 CFR 17.102

**Completed:**

Reason	Date	FR Cite
Final Action	01/07/04	69 FR 1060
Final Action Effective	01/07/04	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Cleaver  
Phone: 202 254-0361

RIN: 2900-AL48

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

Priority: Other Significant

CFR Citation: 38 CFR 17.101

**Completed:**

Reason	Date	FR Cite
Final Action	12/19/03	68 FR 70714

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: David Cleaver  
Phone: 202 254-0361Related RIN: Related to 2900-AK39,  
Related to 2900-AK73

RIN: 2900-AL57

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

Priority: Other Significant

CFR Citation: 38 CFR 4.71(a)

**Completed:**

Reason	Date	FR Cite
Withdrawn	04/27/04	69 FR 22757

**Regulatory Flexibility Analysis**

Required: No

Government Levels Affected: None

Agency Contact: Audrey Tomlinson  
Phone: 202 273-7211

RIN: 2900-AE91

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

Priority: Other Significant

CFR Citation: 38 CFR 4.120; 38 CFR 4.121; 38 CFR 4.122; 38 CFR 4.123; 38 CFR 4.124; 38 CFR 4.124a

**Completed:**

Reason	Date	FR Cite
Withdrawn	01/28/04	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Audrey Tomlinson  
Phone: 202 273-7211

RIN: 2900-AF23

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

Priority: Other Significant

CFR Citation: 38 CFR 4.114

**Completed:**

Reason	Date	FR Cite
Withdrawn	01/28/04	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Audrey Tomlinson  
Phone: 202 273-7211

RIN: 2900-AF24

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

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 44; 38 CFR 48 (New)

**Completed:**

Reason	Date	FR Cite
Final Action	11/26/03	68 FR 66618
Final Action Effective	11/26/03	

**Regulatory Flexibility Analysis**

Required: No

Government Levels Affected: Federal, State

Agency Contact: Robert D. Finneran  
Phone: 202 273-7368

Fax: 202 275-3523

Email: lgyrfinn@vba.va.gov

RIN: 2900-AK16

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

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 4

**Completed:**

Reason	Date	FR Cite
Withdrawn	02/09/04	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Audrey Tomlinson  
Phone: 202 273-7211

RIN: 2900-AL27

**3004. TESTIMONY CERTIFIED OR UNDER OATH**

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 3.200

**Completed:**

Reason	Date	FR Cite
Withdrawn	02/10/04	69 FR 6223

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None

Agency Contact: Robert M. White  
Phone: 202 273-7228

Fax: 202 275-4800

Email: capbwhit@vba.va.gov

Related RIN: Duplicate of 2900-AK24

RIN: 2900-AL38

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

Priority: Substantive, Nonsignificant

CFR Citation: 38 CFR 9.15 (new)

**Completed:**

Reason	Date	FR Cite
Withdrawn	03/04/04	

**Regulatory Flexibility Analysis**

Required: No

Small Entities Affected: No

Government Levels Affected: None



VA

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**Agency Contact:** Jeanne King  
 Phone: 215 842-2000  
 Fax: 215 381-3502  
 Email: issjking@vba.va.gov  
**RIN:** 2900-AL56

**3006. NEW AND MATERIAL EVIDENCE****Priority:** Substantive, Nonsignificant**CFR Citation:** 38 CFR 3.156**Completed:**

Reason	Date	FR Cite
Withdrawn	06/09/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No**Government Levels Affected:** Federal

**Agency Contact:** Randy A. McKeivitt  
 Phone: 202 273-7211  
 Fax: 202 273-1728  
 Email: caprmcke@vba.va.gov  
**RIN:** 2900-AL73

**3007. • DELEGATION OF AUTHORITY—PROPERTY MANAGEMENT CONTRACTOR****Priority:** Substantive, Nonsignificant**Legal Authority:** 38 USC 501; 38 USC 3720; 38 USC 3732**CFR Citation:** 38 CFR 36.4342**Legal Deadline:** None

**Abstract:** The Department of Veterans Affairs is amending its delegation of authority regulation with respect to the loan guaranty program. This amendment will permit certain officers of the private contractor performing properly management functions to execute all documents necessary for the management and sale of single-family properties acquired by VA under its housing loan guaranty program. This amendment will provide notice to buyers, lenders, and other real estate professionals of the contractor's authority to sign these documents rather than requiring VA to prepare and record powers of attorney, thereby increasing the efficiency of the loan guaranty program.

**Timetable:**

Action	Date	FR Cite
Final Action	03/08/04	69 FR 10618
Final Action Effective	03/08/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No**Government Levels Affected:** None

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

**Agency Contact:** William W. Lutes,  
 Assistant Director for Property  
 Management and Strategic  
 Administration, Department of Veterans  
 Affairs, Loan Guaranty Service (263),  
 810 Vermont Avenue, Washington, DC  
 20420

Phone: 202 273-7379

**RIN:** 2900-AL85**3008. • CHANGES OF EFFECTIVE DATE OF RULE ADDING A DISEASE ASSOCIATED WITH EXPOSURE TO CERTAIN HERBICIDE AGENTS: TYPE 2 DIABETES****Priority:** Substantive, Nonsignificant**Legal Authority:** 5 USC 801-808; 38 USC 1116(c)(2); PL 104-121; PL 102-4**CFR Citation:** 38 CFR 3.309(e)**Legal Deadline:** None

**Abstract:** The Department of Veterans' Affairs (VA) is changing the effective date of a final rule published on May 8, 2001, titled "Disease Associated With Exposure to Certain Herbicide Agents: Type 2 Diabetes." This action is necessary to conform to the decision of the United States Court of Appeals for the Federal Circuit in Liesegang v. Secretary of Veterans Affairs, which determined that the correct effective date of the amendment was May 8, 2001. The effect of this Notice is to insure that the effective date conforms to the decision of the United States Court of Appeals for the Federal Circuit and current VA practice.

**Timetable:**

Action	Date	FR Cite
Final Action Effective	05/08/01	
Final Action	06/08/04	69 FR 31882

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No**Government Levels Affected:** None

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**Related RIN:** Related to 2900-AK63**RIN:** 2900-AL93**3009. IMPLEMENTING THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)****Priority:** Other Significant**CFR Citation:** 48 CFR 824; 48 CFR 852**Completed:**

Reason	Date	FR Cite
Withdrawn	03/10/04	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No**Government Levels Affected:** None

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**RIN:** 2900-AL53**3010. BOARD OF VETERANS' APPEALS REGULATIONS; RULES OF PRACTICE****Priority:** Substantive, Nonsignificant

**CFR Citation:** 38 CFR 19.3 (Revision); 38 CFR 20.609 (Revision); 38 CFR 20.903 (Revision); 38 CFR 20.1000; 38 CFR 20.1001; 38 CFR 20.1002; 38 CFR 20.1100 (Revision); 38 CFR 19.10; 38 CFR 19.15 (Revision); 38 CFR 19.39; 38 CFR 20.3; 38 CFR 20.101 (Revision); 38 CFR 20.102 (Revision); 38 CFR 20.201 (Revision); 38 CFR 20.605 (Revision); ...

**Completed:**

Reason	Date	FR Cite
Withdrawn	03/04/04	69 FR 10185

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No**Government Levels Affected:** None

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**RIN:** 2900-AE78

VA

Completed Actions

**3011. THE BOARD OF VETERANS' APPEALS; RULES OF PRACTICE—MOTION FOR REVIEW OF DECISIONS ON GROUNDS OF CLEAR AND UNMISTAKABLE ERROR****Priority:** Substantive, Nonsignificant**CFR Citation:** 38 CFR 20.1403; 38 CFR 20.1405(a); 38 CFR 20.1405(b)**Completed:**

Reason	Date	FR Cite
Interim Final Rule Comment Period End	10/14/03	68 FR 53681
Final Action	06/04/04	69 FR 31523
Final Action Effective	06/04/04	

**Regulatory Flexibility Analysis****Required:** No**Government Levels Affected:** None**Agency Contact:** Steven L. Keller  
Phone: 202 565-5978**RIN:** 2900-AJ85**3012. RULES OF PRACTICE: MEDICAL OPINIONS FROM THE VETERANS HEALTH ADMINISTRATION****Priority:** Substantive, Nonsignificant**CFR Citation:** 38 CFR 20.901(a)**Completed:**

Reason	Date	FR Cite
Final Action	04/15/04	69 FR 19935

**Regulatory Flexibility Analysis****Required:** No**Government Levels Affected:** None**Agency Contact:** Steven L. Keller  
Phone: 202 565-5978**RIN:** 2900-AK52**3013. BOARD OF VETERANS' APPEALS RULES OF PRACTICE: NOTICE PROCEDURES RELATING TO WITHDRAWAL OF SERVICES BY A REPRESENTATIVE****Priority:** Substantive, Nonsignificant**CFR Citation:** 38 CFR 20.608(b)(2)**Completed:**

Reason	Date	FR Cite
Final Action	04/20/04	69 FR 21068

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:** None**Agency Contact:** Steven L. Keller  
Phone: 202 565-5978**RIN:** 2900-AL45**3014. STATE CEMETERY GRANTS****Priority:** Other Significant**CFR Citation:** 38 CFR 39.1; 38 CFR 39.2; 38 CFR 39.3; 38 CFR 39.7; 38 CFR 39.8; 38 CFR 39.9 (New)**Completed:**

Reason	Date	FR Cite
Final Action	03/29/04	69 FR 16344
Final Action Effective	04/28/04	

**Regulatory Flexibility Analysis**  
**Required:** No**Government Levels Affected:** State**Agency Contact:** William Jayne  
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Email: bill.jayne@mail.va.gov**RIN:** 2900-AH46**3015. ELIGIBILITY FOR APPROPRIATE GOVERNMENT MARKER FOR A GRAVE ALREADY MARKED AT PRIVATE EXPENSE****Priority:** Substantive, Nonsignificant**CFR Citation:** 38 CFR 1.632**Completed:**

Reason	Date	FR Cite
Interim Final Rule Comment Period End	11/24/03	68 FR 55317
Final Action	03/11/04	69 FR 11531

**Regulatory Flexibility Analysis****Required:** No**Small Entities Affected:** No**Government Levels Affected:**  
Undetermined**Agency Contact:** David K. Schettler  
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