

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. A new temporary § 165.T09–216 is added to read as follows:

§ 165.T09–216 Safety Zone; Detroit River, Detroit, MI.

(a) *Location.* The waters of the Detroit River bounded on the South by the International Boundary, on the West by 83°03'30" W, on the North by the City of Detroit Shoreline and on the East by 083° 01' W (NAD 83).

(b) *Effective time and date.* This section is effective from 5 p.m. until 12 a.m. on June 25, 2003.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this safety zone is prohibited unless authorized by the Coast Guard Captain of the Port Detroit,

or his designated on-scene representative.

Dated: May 27, 2003.

P. G. Gerrity,

Commander, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 03–14434 Filed 6–9–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3 and 13

RIN 2900–AL29

Compensation and Pension Provisions of the Veterans Education and Benefits Expansion Act of 2001

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) adjudication regulations and its Veterans Benefit Administration fiduciary activities regulations to reflect statutory provisions of the Veterans Education and Benefits Expansion Act of 2001. These changes address the presumption of service connection for respiratory cancers based on herbicide exposure in Vietnam; benefits for Gulf War veterans' chronic disabilities; repeal of the limitation of benefits for incompetent institutionalized veterans; non-service-connected pension eligibility; the limitation on pension for certain recipients of Medicaid-covered nursing home care; the prohibition on certain benefits to fugitive felons; and the limitation on the payment of compensation for veterans remaining incarcerated since October 7, 1980. This document also makes nonsubstantive changes for purposes of clarity and miscellaneous technical amendments in those regulations.

DATES: *Effective Date:* June 10, 2003.

Applicability Dates: In accordance with statutory provisions, the following amendments in this final rule will be applied retroactively:

The amendments to 38 CFR 3.3 are applicable September 17, 2001. The amendment to 38 CFR 3.307(a)(6)(ii) is applicable January 1, 2002. The amendment to 38 CFR 3.307(a)(6)(iii) is applicable December 27, 2001. The amendments to 38 CFR 3.317 are applicable March 1, 2002. The amendments to 38 CFR 3.353, 3.400(e), 3.452, 3.454, 3.501, 3.551, 3.552, 3.557 through 3.559, 3.666, 3.801, 3.852, 3.853, 3.1007, 13.70, 13.71, 13.74 through 13.77, 13.107, 13.108, and 13.109 are applicable December 27,

2001. The amendment to 38 CFR 3.665(a) is applicable December 27, 2001. The amendment to 38 CFR 3.665(c) is applicable April 1, 2002. The removal of the authority citation following 38 CFR 3.665(m) and the addition of 38 CFR 3.665(n) are applicable December 27, 2001.

FOR FURTHER INFORMATION CONTACT: Bill Russo, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC, 20420, telephone (202) 273–7211.

SUPPLEMENTARY INFORMATION: On December 27, 2001, the Veterans Education and Benefits Expansion Act of 2001, Public Law 107–103 (the Act), was enacted. Several provisions of the Act directly affect the payment of VA compensation or pension benefits. These provisions concern presumptions based on herbicide exposure in Vietnam, Gulf War veterans' chronic disabilities, the repeal of the limitation of benefits for incompetent institutionalized veterans, non-service-connected pension eligibility, the extension of the limitation on pension for certain recipients of Medicaid-covered nursing home care, the prohibition on certain benefits to fugitive felons and their dependents, and a limitation on the payment of compensation for certain veterans remaining incarcerated since October 7, 1980.

Section 201 of the Act amended 38 U.S.C. 1116(a)(2)(F) to eliminate the requirement that respiratory cancer (cancers of the lung, bronchus, larynx, trachea) become manifest within 30 years of the veteran's departure from Vietnam to qualify for the presumption of service connection based on exposure to herbicides such as Agent Orange. Section 201 also expanded the presumption of exposure to herbicides to include all Vietnam veterans, not just those who have a disease on the presumptive list in 38 U.S.C. 1116(a)(2) and 38 CFR 3.309(e). In this document we are amending 38 CFR 3.307 to reflect these changes. In addition, section 201 added Type 2 diabetes to the presumptive list in 38 U.S.C. 1116(a)(2). This disease had previously been added to VA's list in 38 CFR 3.309(e).

Section 202(a) of the Act amended 38 U.S.C. 1117 to expand the definition of "qualifying chronic disability" (for service connection) to include not only a disability resulting from an undiagnosed illness as stated in prior law, but also any diagnosed illness that the Secretary determines in regulations warrants a presumption of service-connection under 38 U.S.C. 1117(d). We

are amending § 3.317 to reflect that change.

Section 202(a) also expanded the definition of “qualifying chronic disability” to include a “medically unexplained chronic multisymptom illness (such as chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome) that is defined by a cluster of signs or symptoms.” We believe this provision may be difficult for VA adjudicators to understand and apply consistently due to the highly technical medical aspects of the task of determining whether an illness meets the criteria of “medically unexplained chronic multisymptom illness * * * that is defined by a cluster of signs or symptoms.” Therefore this rulemaking clarifies this category of illnesses by defining the term “medically unexplained chronic multisymptom illness” in new § 3.317(a)(2)(ii) to mean “a diagnosed illness without conclusive pathophysiology or etiology, that is characterized by overlapping symptoms and signs and has features such as fatigue, pain, disability out of proportion to physical findings, and inconsistent demonstration of laboratory abnormalities.” We also state: “Chronic multisymptom illnesses of partially understood etiology and pathophysiology will not be considered medically unexplained.”

This definition is based on the Joint Explanatory Statement for H.R. 1291, the Veterans Education and Benefits Expansion Act of 2001, December 13, 2001, 147 CR 13235 at 13238, which said “it is the intent of the Committees to ensure eligibility for chronically disabled Gulf War veterans not withstanding [sic] a diagnostic label by a clinician in the absence of conclusive pathophysiology or etiology.” The Joint Explanatory Statement also stated, “The compromise agreement’s definition [of medically unexplained chronic multisymptom illness * * * that is defined by a cluster of signs or symptoms] encompasses a variety of unexplained clinical conditions, characterized by overlapping symptoms and signs, that share features such as fatigue, pain, disability out of proportion to physical findings, and inconsistent demonstration of laboratory abnormalities.” *Id.* The Joint Explanatory Statement also said, “The Committees do not intent [sic] this definition to assert that the cited syndromes can be clinically or scientifically linked to Gulf War service based on current evidence, nor do they intend to include chronic multisymptom illnesses of partially understood etiology and pathophysiology such as diabetes or

multiple sclerosis.” *Id.* We are incorporating this guidance into our regulatory criteria for what constitutes such an illness.

The Joint Explanatory Statement also said, “By listing the first three diagnoses as examples, it is the Committees’ intend [sic] to give guidance to the Secretary rather than limit eligibility for compensation based upon other similarly described conditions that may be defined or redefined in the future.” *Id.* We believe that Congress intended that the Secretary have the authority to decide which illnesses satisfy the criteria and to add to this list as he or she becomes aware of them (through advances in medical or other scientific knowledge). As yet, VA has not identified any illness other than the three identified in section 202(a) as a “medically unexplained chronic multisymptom illness,” and we therefore specify in new § 3.317(a)(2)(i)(B)(1) through (3) only chronic fatigue syndrome, fibromyalgia, and irritable bowel syndrome as currently meeting this definition. We also provide in new § 3.317(a)(2)(i)(B)(4) that the list may be expanded in the future when the Secretary determines that other illnesses meet the criteria for a “medically unexplained chronic multisymptom illness.”

In addition, section 202(b) changed the phrase “Neurological signs or symptoms” to “Neurological signs and symptoms,” and we are amending 38 CFR 3.317 accordingly.

Section 204 of the Act amended 38 U.S.C. 5503 to eliminate the withholding of benefits for incompetent, institutionalized veterans without dependents. This document therefore removes the VA regulations on this type of withholding (38 CFR 3.557, 3.559, 13.74 through 13.77, and 13.108), and amends § 3.558, to reflect this change. This document amends § 3.852 to remove the references to institutional awards made under 38 U.S.C. 5503(b). (This document also clarifies that the authority for VA to pay benefits to an institution housing an incompetent veteran is 38 U.S.C. 5502.)

In addition, this document generally removes the references to §§ 3.557, 3.559, and 13.108 that are found in title 38. Specifically, this document removes the references to 38 CFR 3.557 contained in 38 CFR 3.353, 3.400, 3.452, 3.454, 3.501, 3.551, 3.552, 3.801, and 3.853. (We are also changing the heading of § 3.452 to more clearly explain the purpose of that regulation.)

We have retained, however, the references to § 3.557 in §§ 3.558, 3.1003, and 3.1007. Although Public Law 107–103 repealed former 38 U.S.C. 5503(b),

the new statute does not require distribution of funds that were properly withheld by VA while former 38 U.S.C. 5503(b) remained in effect, until such time as the veteran regains competency. Also, VA is not obligated under Public Law 107–103 to distribute funds properly withheld under former section 5503(b) to a veteran’s survivors in the event that the veteran dies without regaining competency.

This document removes the reference to 38 CFR 3.559 contained in 38 CFR 3.551. This document removes the references to 38 CFR 13.108 contained in 38 CFR 13.70 and 13.71.

We are removing 38 CFR 13.109 because the provisions of that section only pertain to former section 5503(b) and/or former 38 U.S.C. 5505. Section 5505 expired September 30, 1992 (38 U.S.C. 5505(c)), and was later repealed by the Veterans’ Benefits Improvements Act of 1994, Public Law 103–446, section 1201(g)(4)(A), 108 Stat. 4645, 4687.

Section 206 of the Act amended 38 U.S.C. 1502(a) to authorize VA to consider a veteran to be permanently and totally disabled for the purposes of non-service-connected disability pension if the veteran is: a patient in a nursing home for long-term care due to disability, or determined to be disabled for purposes of Social Security Administration benefits. This document amends 38 CFR 3.3 to reflect these changes, as well as to reflect expressly the other bases already contained in section 1502(a) for considering persons to be totally and permanently disabled.

Section 207 of the Act added a new 38 U.S.C. 1513, under which a veteran who is age 65 or over and meets the military service and income/net worth requirements for non-service-connected pension is eligible for pension without regard to whether the veteran is permanently and totally disabled. This document amends 38 CFR 3.3 to reflect that change.

Section 504 of the Act amended 38 U.S.C. 5503 to extend the \$90 limitation on pension for certain recipients of Medicaid-covered nursing home care to September 30, 2011. This document amends 38 CFR 3.551 to reflect this change.

Section 505 of the Act added a new 38 U.S.C. 5313B to prohibit the payment of benefits to a veteran while he or she is a fugitive felon or to a veteran’s dependent while the veteran or the dependent is a fugitive felon. This amendment includes definitions of the terms “fugitive felon” and “felony.” The amendment’s prohibition applies to compensation, dependency and indemnity compensation, pension,

medical care, life insurance, vocational rehabilitation, and education benefits. This document amends 38 CFR 3.665 and 38 CFR 3.666 to reflect this change, including by changing the heading of each of those sections. We are changing the heading of § 3.665 from “Penal institutions—compensation” to “Incarcerated beneficiaries and fugitive felons—compensation,” which we believe more clearly identifies the content of that section. For the same reason, we are changing the heading of § 3.666 from “Penal institutions—pension” to “Incarcerated beneficiaries and fugitive felons—pension.”

Section 506 of the Act amended 38 U.S.C. 5313 to extend its current limitations on payment of compensation benefits to incarcerated veterans to also apply to any veteran who is entitled to compensation and who on October 7, 1980, was incarcerated in a Federal, State, or local penal institution for a felony committed before that date; and remains so incarcerated for conviction of that felony as of December 27, 2001, the date of enactment of the Act. This document amends 38 CFR 3.665 to reflect this change. We are also removing the phrase “, or prior to October 7, 1980,” from 38 CFR 3.341(b) (referring to veterans rated as unemployable prior to October 7, 1980) since it is now obsolete.

Administrative Procedure Act

Changes made by this final rule merely reflect statutory provisions, are nonsubstantive changes made for purposes of clarity, or are nonsubstantive technical changes. Accordingly, there is a basis for dispensing with the prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any given year. This final rule will have no consequential effect on State, local, or tribal governments.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Executive Order 12866

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

Regulatory Flexibility Act

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

Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance program numbers for this rule are 64.104, 64.105, 64.109, and 64.110.

List of Subjects

38 CFR Part 3

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

38 CFR Part 13

Surety bonds, Trusts and trustees, and Veterans.

Approved: March 10, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR parts 3 and 13 are amended as follows:

PART 3—ADJUDICATION

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

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

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

■ 2. Section 3.3 is amended by:

■ A. Removing the authority citation following paragraph (a)(3)(v), redesignating paragraphs (a)(3)(v) and (a)(3)(vi) as new paragraphs (a)(3)(vi)(B) introductory text and (a)(3)(v), respectively.

■ B. Adding new paragraphs (a)(3)(vi)(A) and (a)(3)(vi)(B)(1) through (4).

■ C. In newly redesignated paragraph (a)(3)(v), removing “§ 3.23.” and adding, in its place, “§ 3.23; and”.

■ D. In newly redesignated paragraph (a)(3)(vi)(B) introductory text, removing

“misconduct; and” and adding, in its place, “misconduct. For purposes of this paragraph, a veteran is considered permanently and totally disabled if the veteran is any of the following”.

The additions read as follows:

§ 3.3 Pension.

* * * * *

(a) * * *

(3) * * *

(vi)(A) Is age 65 or older; or

(B) * * *

(1) A patient in a nursing home for long-term care because of disability; or

(2) Disabled, as determined by the Commissioner of Social Security for purposes of any benefits administered by the Commissioner; or

(3) Unemployable as a result of disability reasonably certain to continue throughout the life of the person; or

(4) Suffering from:

(i) Any disability which is sufficient to render it impossible for the average person to follow a substantially gainful occupation, but only if it is reasonably certain that such disability will continue throughout the life of the person; or

(ii) Any disease or disorder determined by VA to be of such a nature or extent as to justify a determination that persons suffering from that disease or disorder are permanently and totally disabled.

(Authority: 38 U.S.C. 1502(a), 1513, 1521, 1522)

* * * * *

§ 3.307 [Amended]

■ 3. Section 3.307 is amended by:

■ A. In paragraph (a)(6)(ii), removing “, and respiratory cancers within 30 years,”.

■ B. In paragraph (a)(6)(iii), removing “and has a disease listed at § 3.309(e)” and adding, in its place, a comma.

■ 4. Section 3.317 is amended by:

■ A. In paragraph (a)(1) introductory text, removing “shall” and adding, in its place, “will”, and removing “chronic disability resulting from an illness or combination of illnesses manifested by one or more signs or symptoms such as those listed in paragraph (b) of this section” and adding, in its place, “a qualifying chronic disability”.

■ B. Redesignating paragraphs (a)(2) through (a)(5) as paragraphs (a)(3) through (a)(6), respectively.

■ C. Adding a new paragraph (a)(2).

■ D. In paragraph (b) introductory text, removing “undiagnosed illness” and adding, in its place, “undiagnosed illness or medically unexplained chronic multisymptom illness”.

■ E. In paragraph (b)(6), removing “or” and adding, in its place, “and”.

■ F. In paragraph (d)(1), removing “Persian Gulf veteran” and adding, in its place, “*Persian Gulf veteran*”.

The addition reads as follows:

§ 3.317 Compensation for disabilities occurring in Persian Gulf War veterans.

(a) * * *

(2)(i) For purposes of this section, a *qualifying chronic disability* means a chronic disability resulting from any of the following (or any combination of the following):

(A) An undiagnosed illness;

(B) The following medically unexplained chronic multisymptom illnesses that are defined by a cluster of signs or symptoms:

(1) Chronic fatigue syndrome;

(2) Fibromyalgia;

(3) Irritable bowel syndrome; or

(4) Any other illness that the

Secretary determines meets the criteria in paragraph (a)(2)(ii) of this section for a medically unexplained chronic multisymptom illness; or

(C) Any diagnosed illness that the Secretary determines in regulations prescribed under 38 U.S.C. 1117(d) warrants a presumption of service-connection.

(ii) For purposes of this section, the term *medically unexplained chronic multisymptom illness* means a diagnosed illness without conclusive pathophysiology or etiology, that is characterized by overlapping symptoms and signs and has features such as fatigue, pain, disability out of proportion to physical findings, and inconsistent demonstration of laboratory abnormalities. Chronic multisymptom illnesses of partially understood etiology and pathophysiology will not be considered medically unexplained.

* * * * *

§ 3.341 [Amended]

■ 8. Section 3.341 is amended by:

■ A. In paragraph (b), removing “, or prior to October 7, 1980,” and removing “required the” and adding, in its place, “required, the”.

■ B. In paragraph (c), removing “Division” and adding, in its place, “Service”.

§ 3.353 [Amended]

■ 9. Section 3.353(b)(1) is amended by removing “the discontinuance and payment of amounts withheld because of an estate that equals or exceeds the amount specified in § 3.557(b)(4),”.

■ 10. Section 3.400 is amended by revising the headings of paragraphs (b)(1) and (e) to read as follows:

§ 3.400 General.

* * * * *

(b) * * *

(1) *Disability pension* (§ 3.3).

* * * * *

(e) *Apportionment* (§§ 3.450 through 3.461, 3.551).

* * * * *

■ 11. Section 3.452 is amended by:

■ A. Revising the section heading.

■ B. In paragraph (c)(1), removing “(c)(3)” and adding, in its place, “(c)(2)”.

■ C. Removing paragraph (c)(2).

■ D. Redesignating paragraph (c)(3) as new paragraph (c)(2).

■ E. Revising the authority citation at the end of new paragraph (c)(2).

■ F. In the Cross References, removing “Incompetents; estate equals or exceeds statutory limit and institutionalized. See § 3.557.”

The revisions read as follows:

§ 3.452 Situations when benefits may be apportioned.

* * * * *

(Authority: 38 U.S.C. 501(a); 5307; 5503(a)).

* * * * *

§ 3.454 [Amended]

■ 12. Section 3.454 is amended by removing paragraphs (c) and (d) and their authority citations, respectively.

§ 3.501 [Amended]

■ 13. Section 3.501 is amended by removing paragraph (i)(7).

■ 14. Section 3.551 is amended by:

■ A. In paragraph (a) introductory text, removing “and for discontinuance of awards for incompetent veterans in § 3.557” and removing “3.559” and adding, in its place, “3.556”.

■ B. In paragraph (i), removing “September 30, 2008,” and adding, in its place, “September 30, 2011.”

■ C. In the Cross References, removing “Incompetents; hospitalized. See § 3.557.”

■ D. Adding authority citations at the end of paragraphs (a) and (b).

The additions read as follows:

§ 3.551 Reduction because of hospitalization.

(a) * * *

(Authority: 38 U.S.C. 5503(a))

(b) * * *

(Authority: 38 U.S.C. 5503(a))

* * * * *

§ 3.552 [Amended]

■ 15. Section 3.552(a)(2) is amended by removing “and § 3.557”.

§ 3.557 [Removed and Reserved]

■ 16. Section 3.557 is removed and reserved.

§ 3.558 [Amended]

■ 17. Section 3.558 is amended by

■ A. Removing paragraph (a).

■ B. Redesignating paragraphs (b) and (c) as paragraphs (a) and (b), respectively.

■ C. In newly redesignated paragraph (b), removing “§ 3.557(b)” both times it appears and adding, in its place, “former § 3.557(b) (as in effect prior to December 27, 2001)”.

§ 3.559 [Removed and Reserved]

■ 18. Section 3.559 is removed and reserved.

■ 19. Section 3.665 is amended by:

■ A. Revising the section heading.

■ B. In paragraph (a), in the first sentence, removing “shall not” and adding, in its place, “will not”; in the second sentence, removing “A” and adding, in its place, “VA will inform a” and removing “shall be informed”; in the third sentence, removing “addition,” and adding, in its place, “addition, VA will also notify”, removing “shall also be notified”, and removing “the Department of Veterans Affairs” and adding, in its place, “VA”; and at the end of the paragraph, adding a sentence.

■ C. Adding paragraph (c)(3).

■ D. Removing the authority citation following paragraph (m).

■ E. Adding paragraph (n).

The revision and additions read as follows:

§ 3.665 Incarcerated beneficiaries and fugitive felons—compensation.

(a) * * * However, no apportionment will be made if the veteran or the dependent is a fugitive felon as defined in paragraph (n) of this section.

* * * * *

(c) * * *

(3) A veteran who, on October 7, 1980, was incarcerated in a Federal, State, or local penal institution for a felony committed before that date, and who remains so incarcerated for a conviction of that felony as of December 27, 2001.

* * * * *

(n) *Fugitive felons.*

(1) Compensation is not payable on behalf of a veteran for any period during which he or she is a fugitive felon. Compensation or DIC is not payable on behalf of a dependent of a veteran for any period during which the veteran or the dependent is a fugitive felon.

(2) For purposes of this section, the term *fugitive felon* means a person who is a fugitive by reason of:

(i) Fleeing to avoid prosecution, or custody or confinement after conviction, for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the person flees; or

(ii) Violating a condition of probation or parole imposed for commission of a felony under Federal or State law.

(3) For purposes of paragraph (n) of this section, the term *felony* includes a high misdemeanor under the laws of a State which characterizes as high misdemeanors offenses that would be felony offenses under Federal law.

(4) For purposes of paragraph (n) of this section, the term *dependent* means a spouse, surviving spouse, child, or dependent parent of a veteran.

(Authority: 38 U.S.C. 501(a), 5313, 5313B; Sec. 506, Pub. L. 107-103, 115 Stat. 996-997)

■ 20. Section 3.666 is amended by:

■ A. Revising the section heading.

■ B. In the introductory text, removing "Where" and adding, in its place, "If"; removing "Payments" and adding, in its place, "However, no apportionment will be made if the veteran or the dependent is a fugitive felon as defined in paragraph (e) of this section. Payments", and removing "received in" and adding, in its place, "received by".

■ C. Adding paragraph (e).

The revision and additions read as follows:

§ 3.666 Incarcerated beneficiaries and fugitive felons—pension.

* * * * *

(e) *Fugitive felons.*

(1) Pension is not payable on behalf of a veteran for any period during which he or she is a fugitive felon. Pension or death pension is not payable on behalf of a dependent of a veteran for any period during which the veteran or the dependent is a fugitive felon.

(2) For purposes of this section, the term *fugitive felon* means a person who is a fugitive by reason of:

(i) Fleeing to avoid prosecution, or custody or confinement after conviction for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the person flees; or

(ii) Violating a condition of probation or parole imposed for commission of a felony under Federal or State law.

(3) For purposes of paragraph (e) of this section, the term *felony* includes a high misdemeanor under the laws of a State which characterizes as high misdemeanors offenses that would be felony offenses under Federal law.

(4) For purposes of paragraph (e) of this section, the term *dependent* means a spouse, surviving spouse, child, or dependent parent of a veteran.

(Authority: 38 U.S.C. 501(a), 5313, 5313B)

■ 21. Section 3.801 is amended by:

■ A. In paragraph (e), removing "§§ 3.551 and 3.557" and adding, in its place, "§ 3.551".

■ B. Adding an authority citation at the end of the section.

The addition reads as follows:

§ 3.801 Special acts.

* * * * *

(Authority: 38 U.S.C. 501(a), 5503)

■ 22. Section 3.852 is amended by:

■ A. In paragraph (a)(2), removing the semicolon and adding, in its place, a period.

■ B. Removing paragraph (a)(3).

■ C. Revising the authority citation at the end of paragraph (a).

■ D. Removing paragraph (d), and redesignating paragraph (e) as paragraph (d).

The revision reads as follows:

§ 3.852 Institutional awards.

(a) * * *

(Authority: 38 U.S.C. 501(a); 5307; 5502)

* * * * *

§ 3.853 [Amended]

■ 23. Section 3.853 is amended by removing paragraph (d)..

■ 24. Section 3.1007 is amended by:

■ A. Removing "under § 3.557(b)" and adding, in its place, "under former § 3.557(b) (as applicable prior to December 27, 2001)".

■ B. Removing "the amount specified in § 3.557(b)(4)" and adding, in its place, "the statutory maximum".

■ C. Revising the authority citation at the end of the section.

The revision reads as follows:

§ 3.1007 Hospitalized incompetent veterans.

* * * * *

(Authority: 38 U.S.C. 5503)

PART 13—VETERANS BENEFITS ADMINISTRATION, FIDUCIARY ACTIVITIES

■ 25. The authority citation for part 13 continues to read as follows:

Authority: 72 Stat. 1114, 1232, as amended, 1237; 38 U.S.C. 501, 5502, 5503, 5711, unless otherwise noted.

■ 26. Section 13.70 is amended by:

■ A. Redesignating paragraph (a)(1) as paragraph (a) and removing paragraph (a)(2).

■ B. Adding an authority citation at the end of the section.

The addition reads as follows:

§ 13.70 Apportionment of benefits to dependents.

* * * * *

(Authority: 38 U.S.C. 501, 512, 5502, 5503)

■ 27. Section 13.71 is amended by:

■ A. Removing paragraph (a) heading and paragraph (b).

■ B. Redesignating paragraphs (a)(1) through (a)(1)(iii) as paragraphs (a) through (a)(3), respectively.

■ C. Redesignating paragraphs (a)(2) through (a)(2)(iii) as paragraphs (b) through (b)(3), respectively; and redesignating paragraph (a)(3) as paragraph (c).

■ D. In newly redesignated paragraph (a) introductory text and paragraph (c), removing "(a)(2)" and adding, in its place, "(b)".

■ E. In newly redesignated paragraph (b)(3), removing "shall determine" and adding, in its place, "determines".

■ F. In newly redesignated paragraph (c), removing "may" and adding, in its place, "will".

■ G. Revising the authority citation.

The revision reads as follows:

§ 13.71 Payment of cost of veteran's maintenance in institution.

* * * * *

(Authority: 38 U.S.C. 501, 512, 5502, 5503)

§§ 13.74 through 13.77 [Removed and Reserved]

■ 28. Sections 13.74 through 13.77 are removed and reserved.

■ 29. Section 13.107 is amended by revising the authority citation to read as follows:

§ 13.107 Accounts of chief officers of public or private institutions.

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(Authority: 38 U.S.C. 5502)

§§ 13.108 and 13.109 [Removed and Reserved]

■ 30. Sections 13.108 and 13.109 are removed and reserved.

[FR Doc. 03-14415 Filed 6-9-03; 8:45 am]

BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KS 179-1179a; FRL-7510-4]

Approval and Promulgation of Implementation Plans; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to approve a revision to the State Implementation Plan (SIP) submitted by the state of Kansas. The purpose of this revision is to delete the Wyandotte County Air Pollution Control Regulations from the Federally-Approved Regulations. These regulations were originally incorporated