SSI purposes because they are assumed not to be available for support and maintenance. However, the recipient is not always able to use the cash for payment of medical or social services in the month of receipt. Lacking a regulatory resource provision for medical or social services comparable to that for income, the cash is a countable resource as of the first moment of the month following receipt and may cause ineligibility for SSI benefits.

Resources are defined in regulations (20 CFR 416.1201(a)) as including cash or other liquid assets that an individual owns and can use for support and maintenance. Thus, even though intended for the purchase of medical or social services, cash meets the definition of a resource unless its use is legally restricted.

We are amending 20 CFR 416.1201(a) so that, for 1 calendar month following its receipt, cash which is not income under 20 CFR 416.1103 (a) or (b) because it is payment for medical or social services is not a resource. If the cash is still being held at the beginning of the second calendar month following its receipt, it will be a resource. This rule does not extend to cash received as reimbursement for medical or social services bills the individual has already paid. Even though such reimbursement is not income by operation of 20 CFR 416.1103 (a) or (b), it serves only to replace the individual's previously countable resources that have been used to pay for medical or social services prior to receipt of the reimbursement. Since the individual has already paid for the medical or social services, there is no reason for extending to the reimbursement the 1 month disbursement period during which cash received for medical or social services is not a resource. Thus, if retained, the cash is included in countable resources beginning with the first month following receipt.

This final rule recognizes that it is not reasonable to expect an individual to use certain funds for support and maintenance. To use these funds for support and maintenance tends to thwart the purpose of the payor program and could result in individuals having to do without needed services that the payor program intended to provide. The rule allows a reasonable period for individuals to make disbursement, but if they do not do so, the money becomes a resource.

## Regulatory Procedures

### *Executive Order 12291*

The Secretary has determined that this is not a major rule under Executive Order 12291 since the program and administrative costs of this final regulation will be insignificant and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

### *Paperwork Reduction Act*

This final regulation imposes no additional reporting and recordkeeping requirement requiring Office of Management and Budget clearance.

### *Regulatory Flexibility Act*

We certify that this final regulation will not have a significant economic impact on a substantial number of small entities because this rule affects only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplementary Security Income Program)

### List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income.

Dated: April 11, 1988.

**Dorcas R. Hardy,**

*Commissioner of Social Security.*

Approved: May 10, 1988.

**Otis R. Bowen,**

*Secretary of Health and Human Services.*

Subpart L of Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

## PART 416—[AMENDED]

1. The authority citation for Subpart L of Part 416 continues to read as follows:

**Authority:** Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621 and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j and 1383; sec. 211 of Pub. L. 93-66, 87 Stat. 154.

2. Section 416.1201 is amended by revising paragraph (a) to read as follows:

**§ 416.1201 Resources; general.**

(a) *Resources; defined.* For purposes of this Subpart L, resources means cash or other liquid assets or any real or personal property that an individual (or spouse, if any) owns and could convert to cash to be used for his or her support and maintenance.

(1) If the individual has the right, authority or power to liquidate the property or his or her share of the property, it is considered a resource. If a property right cannot be liquidated, the property will not be considered a resource of the individual (or spouse).

(2) Support and maintenance assistance not counted as income under § 416.1157(c) will not be considered a resource.

(3) Except for cash reimbursement of medical or social services expenses already paid for by the individual, cash received for medical or social services that is not income under § 416.1103 (a) or (b) is not a resource for the calendar month following the month of its receipt. However, cash retained until the first moment of the second calendar month following its receipt is a resource at that time.

* * * * *

[FR Doc. 13806 Filed 6-20-88; 8:45 am]

BILLING CODE 4190-11-M

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

## [T.D. 8208]

# Income Taxes; Definition of Functional Currency

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Corrections to temporary regulations.

**SUMMARY:** This document contains corrections to temporary regulations that were published in the **Federal Register** for Friday, June 3, 1988 (53 FR 20308) as Treasury Decision 8208. The rules relate to the definition of a taxpayer's functional currency.

**FOR FURTHER INFORMATION CONTACT:** David Rosenberg of the Office of Associate Chief Counsel (International), within the Office of Chief Counsel, 202-634-5406 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

The temporary regulations that are the subject of these corrections relate to income tax regulations under section 985 of the Internal Revenue Code of 1986. Section 985 introduces a new statutory concept that requires all Federal income tax determinations to be made in a taxpayer's functional currency.

### Need for Corrections

As published, Treasury Decision 8208 contains several errors that might cause confusion to taxpayers and practitioners.

**Corrections of Publication**

## PART 1—[CORRECTED]

Accordingly, the publication of Treasury Decision 8208, which was the subject of FR Doc. 88-12562, is corrected as follows:

### § 1.985-1T [Corrected]

**Paragraph 1.** On page 20312, second column, in § 1.985–1T(c)(6), in line 7 from the top of the column, the language "under this section (c) unless the" is removed and the language "under this paragraph (c) unless the" is added in its place.

**Par. 2.** On page 20313, third column, in § 1.985–1T(f), Example (11), in line 29 from the bottom of the column, the language "services income, and 5 percent, or 5 LCs, is" is removed and the language "services income, and 10 percent, or 5 LCs, is" is added in its place.

### § 1.985-3T [Corrected]

**Par. 3.** On page 20316, third column, in § 1.985–3T(c)(8), Example (1), in line 14 of the example, the language "the account receivable would be a third" is removed and the language "the account receivable would be a third country" is added in its place.

**Par. 4.** On page 20317, the tables as shown are incorrectly assembled and should be as follows:

| Sales | Hyperinflationary currency | Exchange rate | United States dollars |
|---|---|---|---|
| (Jan-Feb) | 10,000,000h | [1] 20:1 | 500,000 |
| (Mar-Apr) | 20,000,000 | [1] 21:1 | 952,381 |
| (May-Jun) | 50,000,000 | [1] 22:1 | 2,272,727 |
| (July) | 50,000,000 | 23:1 | 2,173,913 |
| (August) | 20,000,000 | 26:1 | 769,231 |
| (Sept.) | 20,000,000 | 28:1 | 714,286 |
| (Oct.) | 20,000,000 | 29:1 | 689,655 |
| (Nov.) | 20,000,000 | 30:1 | 666,667 |
| (Dec.) | 30,000,000 | 31:1 | 967,742 |
| Total | 240,000,000h | | 9,706,602 |
| Cost of Goods Sold: | | | |
| Opening Inventory | 0 | | 0 |
| Purchases: | | | |
| (Jan-Feb) | 15,000,000h | [1] 20:1 | 750,000 |
| (Mar-Apr) | 10,000,000 | [1] 21:1 | 476,190 |
| (May-Jun) | 30,000,000 | [1] 22:1 | 1,363,636 |
| (July) | 20,000,000 | 23:1 | 869,565 |
| (August) | 10,000,000 | 26:1 | 384,615 |
| (Sept.) | 5,000,000 | 28:1 | 178,571 |
| (Oct.) | 5,000,000 | 29:1 | 172,414 |
| (Nov.) | 2,500,000 | 30:1 | 83,333 |
| (Dec.) | 2,500,000 | 31:1 | 80,645 |
| Less Closing Inventory | (23,000,000) | ([2]) | (822,655) |
| | 77,000,000h | | 3,536,314 |
| Non-Capitalized Exp. | | | |
| (Jan-Feb) | 4,000,000h | [1] 20:1 | 200,000 |
| (Mar-Apr) | 2,500,000 | [1] 21:1 | 119,048 |
| (May-Jun) | 2,500,000 | [1] 22:1 | 113,636 |
| (July) | 2,000,000 | 23:1 | 86,957 |
| (August) | 3,000,000 | 26:1 | 115,385 |
| (Sept.) | 3,000,000 | 28:1 | 107,143 |
| (Oct.) | 2,000,000 | 29:1 | 68,966 |
| (Nov.) | 3,000,000 | 30:1 | 100,000 |
| (Dec.) | 4,000,000 | 31:1 | 129,032 |
| Total | 26,000,000h | | 1,040,167 |
| Deprec. | 4,000,000h | 20:1 | 200,000 |
| Total Cost & Exp | 107,000,000h | | 4,776,481 |
| Operating Profit | 133,000,000h | | 4,930,121 |

[1] The average exchange rate for each month is the same.

[2] Since S uses the first-in, first-out inventory method, the closing inventory is assumed in normal circumstances to consist of purchases made during the most recent translation period as follows:

| Sales | Hyperinflationary currency | Exchange rate | United States dollars |
|---|---|---|---|
| December | 2,500,000h | 31:1 | 80,645 |
| November | 2,500,000 | 30:1 | 83,333 |
| October | 5,000,000 | 29:1 | 172,414 |
| September | 5,000,000 | 28:1 | 178,571 |
| August | 8,000,000 | 26:1 | 307,692 |
| Total | 23,000,000h | | 822,655 |

**Par. 5.** On page 20317, column 2, in § 1.985–3T(d)(2), in line 4 from the bottom of the column, the language "attributable to a third currency" is removed and the language "attributable to a third country currency" is added in its place.

Par. 6. On page 20318, column 3, in § 1.985–3T(d)(6), in the first line of the heading, the language "(6) Dollar and third currency" is removed and the language "(6) Dollar and third country currency" is added in its place.

**Dale D. Goode,**

*Chief, Technical Section, Legislation and Regulations Division.*

[FR Doc. 88–13932 Filed 6–20–88; 8:45 am]

BILLING CODE 4830-01-M

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## DEPARTMENT OF LABOR

### Office of Labor-Management Standards

### 29 CFR Part 452

### Candidacy Age Requirements in Union Officer Elections; Correction

**AGENCY:** Office of Labor-Management Standards, Labor.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects a final regulation concerning restrictions on candidacy for union office which was published in the **Federal Register** on March 17, 1988 (53 FR 8750; FR Doc. 88–5901).

**FOR FURTHER INFORMATION CONTACT:** Kay Oshel, Chief, Division of Interpretations and Standards, Office of Labor-Management Standards, Department of Labor, Washington, DC 20210; telephone (202) 523–7373 (this is not a toll free number).

**SUPPLEMENTARY INFORMATION:** The following corrections are made to the final regulation published in the **Federal Register** on March 17, 1988, in order to reinsert a footnote in the text of 29 CFR 452.46. The footnote had been included in the pre-amended § 452.46 and was inadvertently omitted in publishing the amendment on March 17, 1988.

**§ 452.46 [Corrected]**

1. The fourth sentence of the amended 29 CFR 452.46 should read, "Thus, it ordinarily may not limit eligibility for office to persons of a particular race, color, religion, sex, or national origin since this would be inconsistent with the Civil Rights Act of 1964.[28]"

2. The text of footnote 28 should read as follows: "[28] *Shultz* v. *Local 1291, International Longshoremen's Association*, 338 F. Supp. 1204 (E.D. Pa.), aff'd, 461 F.2d 1262 (C.A. 3 1972)."

Signed at Washington, DC, this 14th day of June, 1988.

**Salvatore R. Martoche,**

*Assistant Secretary for Labor-Management Standards.*

[FR Doc. 88–13873 Filed 6–20–88; 8:45 am]

BILLING CODE 4510-86-M

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 100

### [CGD11 88–02]

### Regatta; Sacramento Water Festival

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The regulation will amend § 100.1202 of Title 33, Code of Federal Regulations. The purpose is to extend the period of time the Sacramento River is closed during the Sacramento Water Festival.

**EFFECTIVE DATE:** June 2, 1988. Consequently, for 1988, these regulations are effective from 0900 to 1800 on July 2, July 3, and July 4.

**FOR FURTHER INFORMATION CONTACT:** Lt. K. S. Gregory, Eleventh Coast Guard District Boating Affairs Office, 400 Oceangate Boulevard, Long Beach, California 90822–5399, Tel: (213) 499–5318.

**SUPPLEMENTARY INFORMATION:** On 14 April, 1988, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (53 FR 12434). Interested persons were requested to submit comments and one comment was received.

**Drafting Information**

The drafters of these regulations are Lt. K. S. Gregory, project officer, Eleventh Coast Guard Boating Affairs Office, and Lt. G. R. Wheatley, project attorney, Eleventh Coast Guard District Legal Office.

**Discussion of Comments**

The one commentor mentioned the impact of diminished public access through the Water Festival area. The Sacramento Water Festival draws a number of visitors to the local area and boosts the local economy. Due to the type of events scheduled, closure of the Water Festival area is necessary to insure the safety of participants as well as spectators. Closure of the Water Festival area is in the best interest of the community. Passage through the Water Festival area will be restricted during the following periods: Saturday, July 2, 1988—0900 to 1145, 1215 to 1515, and 1545 to 1800; Sunday, July 3, 1988—0900 to 1145, 1215 to 1515, and 1545 to 1730; Monday, July 4, 1988—1000 to 1145, 1215 to 1515, and 1545 to 1700.

**Economic Assessment and Certification**

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is deemed unnecessary. It involves negligible cost and will not have a significant effect on recreational vessels, commercial vessels or other marine interests.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that they will not have significant economic impact on a substantial number of small entities.

**List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water).

**Final Regulations**

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

### PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.1202(a) is revised to read as follows:

**§ 100.1202 Sacramento Water Festival.**

* * * * *

(a) *Effective Dates.* This section is effective from 0900 to 1800 PDT the first Friday, Saturday, and Sunday in July, except for those years when July 4th falls on Monday. In those years, the effective date of these regulations will be the first Saturday, Sunday and Monday in July, as published in the LOCAL NOTICE TO MARINERS.

Dated: June 13, 1988.

**J.W. Kime,**

*Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.*

[FR Doc. 88–13856 Filed 6–20–88; 8:45 am]

BILLING CODE 4910-14-M

## VETERANS ADMINISTRATION

### 38 CFR Part 3

### Improvements in Veterans' Benefits

**AGENCY:** Veterans Administration.

**ACTION:** Final regulations.

**SUMMARY:** The Veterans Administration (VA) has amended its adjudication regulations to improve and extend eligibility for certain veterans' benefits. The amendments are necessary because recent legislation has changed the eligibility and entitlement criteria for those benefits. The effect of these amendments will be the addition of new presumptively service-connected disabilities for former prisoners of war, improvement in compensation payable for certain multiple disabilities, exclusion of certain income in computing pension entitlement, extension of eligibility for special home adaptation grants and a change in the effective date of reduction for certain hospitalized incompetent veterans. Additional amendments also implement opinions of the VA General Counsel and a settlement agreement.

**EFFECTIVE DATES:** These amendments are effective October 28, 1986, with the exception of the amendments to 38 CFR 3.309(c) which are effective October 1, 1986, as provided by law, and the amendments to 38 CFR 3.22, 3.23, 3.271, 3.272(h) and (m), and 3.557(c) and 3.800 which are effective July 21, 1988.

**FOR FURTHER INFORMATION CONTACT:** Robert M. White, Chief, Regulations Staff, Compensation and Pension Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–3005.

**SUPPLEMENTARY INFORMATION:** On pages 37170–75 of the **Federal Register** of October 5, 1987, the VA published proposed rules for improvements in veterans' benefits. Interested persons were invited to submit comments, suggestions or objections to these proposals by November 4, 1987. Five comments were received.

One commenter was totally supportive of the proposed changes while another suggested an additional income exclusion for pension purposes which was not a subject on which comments were sought. As will be noted later, exclusions from income under the improved pension program are set forth in Title 38 United States Code.

The other three commenters all focused on the proposed definition of hardship for purposes of excluding a child's income when computing pension entitlement and on the method of computing the amount of that exclusion. One commenter suggested that the proposed definition and computation method would be a burden on regional office personnel and offered an alternative definition. The commenter suggested that hardship should be held to exist whenever a child's income exceeds the additional amount added to a veteran's or surviving spouse's maximum annual pension rate by virtue of including that child as a member of the family unit. The amount of the exclusion would be the amount of the excess.

This suggestion cannot be accepted for a number of reasons. First, it defines hardship differently for different children. Under this suggestion when a single veteran adds one dependent child to his or her award, hardship would exist when the child's income exceeded $1926. Similarly, when the first child is added to a surviving spouse's award, hardship would exist when the child's income exceeded $1291. When other children are subsequently added to a veteran's or surviving spouse's award, hardship for them would exist when their income exceeded $1055. Such unequal treatment is not appropriate.

Secondly, pension is a need-based program with those in greater financial need receiving more benefits. In determining need the income of all family members is considered. Under the suggested definition and exclusion methodology a child with income under $1000 could not claim a hardship exclusion but a child with income of $10,000 could. This is contrary to the basic purpose of the pension program.

In addition, hardship cannot be defined in terms of a particular dollar amount. The level of income that may create a hardship in New York City may not create a hardship in a more rural community. We believe that the hardship definition and methodology proposed will result in more equitable treatment of claimants on a case-by-case basis and is consistent with the basic purpose of the pension program.

The remaining two commenters who addressed the definition of hardship recommended that the definition of low income used by the Department of Housing and Urban Development (HUD) be considered as the income level below which hardship would be presumed and a child's income would be excluded. That definition was said to be 80 percent of the median income for the region. After review of HUD's October 1, 1986, median family income figures we determined that the suggested definition of hardship could not be used. In most cases the median family income figures were so high that people with incomes near 80 percent of those figures would exceed the maximum annual pension rate and would not be entitled to pension. The effect of the suggestion, in other words, would be, if an individual's income were low enough to permit pension entitlement, the VA would be precluded from considering the income of any child in the family unit. This would constitute a blanket exclusion of children's income which Title 38 United States Code would not permit.

It was also suggested that a baseline for earned income of children be established. We believe this would be inappropriate for the same reason as establishing a set monetary amount as constituting hardship.

These commenters also suggested that the proposed determinations would be burdensome on the VA and would tend to favor those who kept accurate records and could best articulate their expenditures for reasonable family maintenance. We do not believe this proposed adjudicative determination would be a burden on VA employees as they already make similar determinations when deciding whether a veteran's parents qualify as dependents. We also do not believe that these proposed rules will favor some beneficiaries over others. In any event, there are numerous vererans' service organizations and the VA's own benefit counselors who are ready to assist any claimant who has difficulty.

Finally these two commenters suggest that the VA cannot consider a child's social security benefits in determining the pension entitlement of a veteran or surviving spouse. Court decisions and the laws and regulations governing social security benefits are cited in support of this position. We cannot agree. The statutory authority for including a child's social security benefits when computing a veteran's or surviving spouse's pension entitlement is contained in 38 U.S.C. 503, 521 and 541. Until such authority is repealed, the VA must continue to implement both the letter and the spirit of those statutes.

These amendments are adopted as proposed. We appreciate the interest expressed by each commenter.

In accordance with Executive Order 12291, Federal Regulation, we have determined that these final regulations are nonmajor for the following reasons:

(1) They will not have an annual effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity,

innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

Catalog of Federal Domestic Assistance program numbers are 64.100 through 64.110.

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

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: June 1, 1988.

**Thomas K. Turnage,**

*Administrator.*

38 CFR Part 3, Adjudication, is amended as follows:

## PART 3—[AMENDED]

1. In § 3.22 paragraph (b) is amended by adding a sentence and an authority citation at the end to read as follows:

**§ 3.22 Benefits at DIC rates in certain cases when death is not service-connected.**

* * * * *

(b) * * * The provisions of this paragraph do not apply, however, to any portion of such benefits payable for any period preceding the end of the month in which such money or property of value is received.

(Authority: 38 U.S.C. 210(c))

* * * * *

2. In § 3.23, new paragraph (d)(6) is added to read as follows:

**§ 3.23 Improved pension rates-veterans and surviving spouses.**

* * * * *

(d) * * *

(6) *Reasonable availability and hardship.* For the purposes of paragraphs (d)(4) and (d)(5) of this section, a child's income shall be considered "reasonably available" when it can be readily applied to meet the veteran's or surviving spouse's expenses necessary for reasonable family maintenance, and "hardship" shall be held to exist when annual expenses necessary for reasonable family maintenance exceed the sum of countable annual income plus VA pension entitlement. "Expenses necessary for reasonable family maintenance" include expenses for basic necessities (such as food, clothing, shelter, etc.) and other expenses, determined on a case-by-case basis, which are necessary to support a reasonable quality of life.

(Authority: 38 U.S.C. 210(c))

3. In § 3.271, paragraphs (a), (e) and (f) are revised to read as follows:

**§ 3.271 Computation of income.**

(a) *General.* Payments of any kind from any source shall be counted as income during the 12-month annualization period in which received unless specifically excluded under § 3.272.

(Authority: 38 U.S.C. 210(c))

* * * * *

(e) *Installments.*—Income shall be determined by the total amount received or anticipated during a 12-month annualization period.

(Authority: 38 U.S.C. 210(c))

(f) *Deferred determinations.* When an individual is unable to predict with certainty the amount of countable annual income, the annual rate of improved pension shall be reduced by the greatest amount of anticipated countable income until the end of the 12-month annualization period, when total income received during that period will be determined and adjustments in pension payable made accordingly.

(Authority: 38 U.S.C. 210(c))

4. In § 3.272, the introductory text, paragraphs (g) introductory text, (g)(1)(iii), (g)(2)(iii), (g)(3), (h) introductory text, and (h)(1)(i) are revised, and paragraphs (l) and (m) are added to read as follows:

**§ 3.272 Exclusions from income.**

The following shall be excluded from countable income for the purpose of determining entitlement to improved pension. Unless otherwise provided, expenses deductible under this section are deductible only during the 12-month annualization period in which they were paid.

(Authority: 38 U.S.C. 210(c))

(g) *Medical expenses.* Within the provisions of the following paragraphs, there will be excluded from the amount of an individual's annual income any unreimbursed amounts which have been paid within the 12-month annualization period for medical expenses regardless of when the indebtedness was incurred. An estimate based on a clear and reasonable expectation that unusual medical expenditure will be realized may be accepted for the purpose of authorizing prospective payments of benefits subject to necessary adjustment in the award upon receipt of an amended estimate, or after the end of the 12-month annualization period upon receipt of an eligibility verification report.

(Authority: 38 U.S.C. 210(c))

(1) * * *

(iii) They were or will be in excess of 5 percent of the applicable maximum annual pension rate or rates for the veteran (including increased pension for family members but excluding increased pension because of need for aid and attendance or being housebound) as in effect during the 12-month annualization period in which the medical expenses were paid.

(2) * * *

(iii) They were or will be in excess of the applicable maximum annual pension rate or rates for the spouse (including increased pension for family members but excluding increased pension because of need for aid and attendance or being housebound) as in effect during the 12-month annualization period in which the medical expenses were paid.

(Authority: 38 U.S.C. 210(c))

(3) *Children's income.* Unreimbursed amounts paid by a child for medical expenses of self, parent, brothers and sisters, to the extent that such amounts exceed 5 percent of the maximum annual pension rate or rates payable to the child during the 12-month annualization period in which the medical expenses were paid.

(Authority: 38 U.S.C. 210(c))

(h) *Expenses of last illnesses, burials, and just debts.* Expenses specified in paragraphs (h)(1) and (h)(2) of this section which are paid during the calendar year following that in which death occurred may be deducted from annual income for the 12-month annualization period in which they were paid or from annual income for any 12-month annualization period which begins during the calendar year of death, whichever is to the claimant's advantage. Otherwise, such expenses are deductible only for the 12-month annualization period in which they were paid. Any such expenses paid subsequent to death but prior to date of entitlement are not deductible.

(Authority: 38 U.S.C. 210(c))

(1) * * *

(i) Amounts paid by a spouse before a veteran's death for expenses of the veteran's last illness will be deducted from the income of the surviving spouse.

(Authority: 38 U.S.C. 503(a)(3))

* * * * *

(l) *Distributions of funds under 38 U.S.C. 618.* Distributions from the Veterans Administration Special Therapeutic and Rehabilitation Activities Fund as a result of participation in a therapeutic or rehabilitation activity under 38 U.S.C. 618 shall be considered donations from a public or private relief or welfare organization and shall not be countable as income for pension purposes.

(Authority: 38 U.S.C. 618(f))

(m) *Hardship exclusion of child's available income.* When hardship is established under the provisions of § 3.32(d)(6) of this part, there shall be excluded from the available income of any child or children an amount equal to the amount by which annual expenses necessary for reasonable family maintenance exceed the sum of countable annual income plus VA pension entitlement computed without consideration of this exclusion. The amount of this exclusion shall not exceed the available income of any child or children, and annual expenses necessary for reasonable family maintenance shall not include any expenses which were considered in determining the available income of the child or children or the countable annual income of the veteran or surviving spouse.

(Authority: 38 U.S.C. 521(h), 541(g))

5. In § 3.309, the list in paragraph (c) and the authority citation for the section are revised to read as follows:

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

* * * * *

(c) *Diseases specific as to former prisoners of war.*

* * * * *

Avitaminosis.
Beriberi (including beriberi heart disease).
Chronic dysentery.
Helminthiasis.
Malnutrition (including optic atrophy associated with malnutrition).
Pellagra.
Any other nutritional deficiency.
Pyschosis.
Any of the anxiety states.
Dysthmic disorder (or depressive neurosis).
Organic residuals of frostbite, if it is determined that the veteran was interned in climatic conditions consistent with the occurrence of frostbite.
Post-traumatic osteoarthritis.

(Authority: 38 U.S.C. 210(c))

6. In § 3.342, paragraph (b)(4)(ii) is revised to read as follows:

**§ 3.342 Permanent and total disability ratings for pension purposes.**

* * * * *

(b) * * *

(4) * * *

(ii) Participation in, or the receipt of a distribution of funds as a result of participation in, a therapeutic or rehabilitation activity under 38 U.S.C. 618.

(Authority: 38 U.S.C. 618(f))

7. In § 3.343, the last sentence in paragraph (c)(1) is revised and an authority citation is added to paragraph (c) to read as follows:

**§ 3.343 Continuance of total disability ratings.**

* * * * *

(c) *Individual unemployability.* (1) * * * Neither participation in, nor the receipt of a distribution of funds as a result of participation in, a therapeutic or rehabilitation activity under 38 U.S.C. 618 shall be considered evidence of employability.

(Authority: 38 U.S.C. 618(f))

* * * * *

8. Section 3.383 is revised to read as follows:

**§ 3.383 Special consideration for paired organs and extremities.**

(a) *Entitlement criteria.* Compensation is payable for the combinations of service-connected and nonservice-connected disabilities specified in paragraphs (a)(1) through (a)(5) of this section as if both disabilities were service-connected, provided the nonservice-connected disability is not the result of the veteran's own willful misconduct.

(1) Blindness in one eye as a result of service-connected disability and blindness in the other eye as a result of nonservice-connected disability.

(2) Loss or loss of use of one kidney as a result of service-connected disability and involvement of the other kidney as a result of nonservice-connected disability.

(3) Total deafness in one ear as a result of service-connected disability and total deafness in the other ear as a result of nonservice-connected disability.

(4) Loss or loss of use of one hand or one foot as a result of service-connected disability and loss or loss of use of the other hand or foot as a result of nonservice-connected disability.

(5) Permanent service-connected disability of one lung, rated 50 percent or more disabling, in combination with a nonservice-connected disability of the other lung.

(b) *Effect of judgment or settlement.* (1) If a veteran receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the nonservice-connected disability which established entitlement under this section, the increased compensation payable by reason of this section shall not be paid for any month following the month in which any such money or property is received until such time as the total amount of such increased compensation that would otherwise have been payable equals the total of the amount of any such money received and the fair market value of any such property received. The provisions of this paragraph do not apply, however, to any portion of such increased compensation payable for any period preceding the end of the month in which such money or property of value was received.

(2) With respect to the disability combinations specified in paragraphs (a)(1), (a)(2), (a)(3) and (a)(5) of this section, the provisions of this paragraph apply only to awards of increased compensation made on or after October 28, 1986.

(c) *Social security and workers' compensation.* Benefits received under social security or workers' compensation are not subject to recoupment under paragraph (b) of this section even though such benefits may have been awarded pursuant to a judicial proceeding.

(d) *Veteran's duty to report.* Any person entitled to increased compensation under this section shall promptly report to the VA the receipt of any money or property received pursuant to a judicial proceeding based upon, or a settlement or compromise of, any cause of action or other right of recovery for damages for the nonservice-connected loss or loss of use of the impaired extremity upon which entitlement under this section is based. The amount to be reported is the total of the amount of money received and the fair market value of property received. Expenses incident to recovery, such as attorneys' fees, may not be deducted from the amount to be reported.

(Authority: 38 U.S.C. 360)

**§ 3.384 [Removed and reserved]**

9. Section 3.384 is removed and reserved.

10. In § 3.501, paragraph (i)(3) is revised to read as follows:

§ 3.501 Veterans.

* * * * *

(i) * * *

(3) *Section 3.557.* Incompetent veteran, admitted for hospital, institutional or domiciliary care, without dependents, whose estate equals or exceeds $1,500: Last day of the month of admission or the last day of the month in which the veteran's estate equal or exceeds $1,500, whichever is later. If the veteran was hospitalized for observation and examination, the date treatment began will be considered the date of admission.

(Authority: 38 U.S.C. 3012(c))

11. In § 3.502, the introductory text and paragraph (c) are revised to read as follows:

§ 3.502 Surviving spouses.

The effective date of discontinuance of pension, compensation, or dependency and indemnity compensation to or for a surviving spouse will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

(Authority: 38 U.S.C. 210(c))

* * * * *

(c) *Legal surviving spouse entitled.* Date of last payment on award to another person as surviving spouse. See § 3.657.

(Authority: 38 U.S.C. 210(c))

* * * * *

12. In § 3.503, the introductory text and paragraphs (b) and (i) are revised as follows:

§ 3.503 Children.

The effective date of discontinuance of pension, compensation, or dependency and indemnity compensation to or for a child, or to or for a veteran or surviving spouse on behalf of such child, will be the earliest of the dates stated in this section. Where an award is reduced, the reduced rate will be payable the day following the date of discontinuance of the greater benefit.

(Authority: 38 U.S.C. 210(c))

* * * * *

(b) *Enters service.* Date of last payment of apportioned disability benefits for child not in custody of estranged spouse. Full rate payable to veteran. No change where payments are being made for the child to the veteran, his (her) estranged spouse, his (her) surviving spouse, or to the fiduciary of a child not in the surviving spouse's custody.

(Authority: 38 U.S.C. 210(c))

* * * * *

(i) *Surviving spouse becomes entitled.* Date of last payment. See § 3.657.

(Authority: 38 U.S.C. 210(c))

13. In § 3.557, the first sentence of paragraph (b)(4) and paragraph (d), and all of paragraph (c) are revised and an authority citation is added to paragraph (d) to read as follows:

§ 3.557 Incompetents; estate over $1,500 and institutionalized.

* * * * *

(b) * * *

(4) Has an estate, derived from any source, which equals or exceeds $1,500, further payments of pension, compensation or emergency officer's retirement pay will not be made, except as provided in paragraph (d) of this section, until the estate is reduced to $500.

* * * * *

(c) For veterans subject to paragraph (b) of this section, the value of the veteran's estate shall be computed under the provisions of § 13.109 of this title.

(Authority: 38 U.S.C. 210(c))

(d) Payment of pension, compensation or emergency officers' retirement pay to a veteran subject to the provisions of paragraph (b) of this section will be discontinued the last day of the month of admission or the last day of the month in which the veteran's estate equals or exceeds $1,500, whichever is later. * * *

(Authority: 38 U.S.C. 3203)

* * * * *

14. In § 3.800, paragraph (a)(2) is amended by adding a sentence at the end and revising the authority citation to read as follows:

§ 3.800 Disability or death due to hospitalization, etc.

(a) * * *

(2) * * * The provisions of this paragraph do not apply, however, to any portion of such compensation or dependency and indemnity compensation payable for any period preceding the end of the month in which such judgment, settlement or compromise becomes final.

(Authority: 38 U.S.C. 210(c))

* * * * *

15. In § 3.809a, the introductory text is revised to read as follows:

§ 3.809a Special home adaptation grants under 38 U.S.C. 801(b).

A certificate of eligibility for assistance in acquiring necessary special home adaptations, or, on or after October 28, 1986, for assistance in acquiring a residence already adapted with necessary special features, under 38 U.S.C. 801(b) may be issued to a veteran who served after April 20, 1898, if the following requirements are met:

(Authority: 38 U.S.C. 801(b))

* * * * *

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BILLING CODE 8320-01-M

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[FRL-3399-2; KY-043]

### Approval and Promulgation of Implementation Plans; Kentucky Permit Fees and Renewal

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

**ACTION:** Final rule.

**SUMMARY:** EPA today approves amendments to Jefferson County Regulation 2.08, Permit Fees and Renewal, submitted to EPA on March 20, 1987. These amendments entail a complete realignment of permit fees and renewal frequencies. After completing a study of the average costs involved in establishing a permit, the Jefferson County Air Pollution Contol District determined that these revisions to Regulation 2.08 being approved today are necessary to cover the costs of reviewing and processing permit applications, as well as the costs of implementing and enforcing such permit conditions. Section 110(a)(2)(K) of the Clean Air Act provides the authority for the establishment of permit fees. The amendments to Regulation 2.08 being approved in this notice were proposed on November 19, 1987 (52 FR 44448). No comments were received in response to that proposal.

**EFFECTIVE DATE:** This rule will become effective on July 21, 1988.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Kentucky Natural Resources and Environmental Protection Cabinet, Department of Environmental Protection, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601.