

significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); 33 CFR 117.43.

§ 117.295 [Amended]

2. Section 117.295 is amended by removing paragraphs (a), (c), and the paragraph designation (b) and redesignating the paragraph as the entire section.

Dated: July 19, 1989.

Martin H. Daniell,

Rear Admiral, U.S. Coast Guard Commander,
Seventh Coast Guard District.

[FR Doc. 89-18047 Filed 8-1-89; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AD19

Definition of Fraud

AGENCY: Department of Veterans Affairs.

ACTION: Final regulation.

SUMMARY: The Department of Veterans Affairs (VA) is amending its adjudication regulations concerning the definition of fraud. The amendment is necessary as the current definition of fraud, mandated by law, pertains exclusively to forfeiture. The effect of this amendment will be to establish a definition of fraud for all adjudication applications other than forfeiture.

EFFECTIVE DATE: September 1, 1989.

FOR FURTHER INFORMATION CONTACT:

Joel Drebus, Legal Consultant, Regulations Staff, Compensation and Pension Service (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3005.

SUPPLEMENTARY INFORMATION: On pages 15781-82 of the Federal Register of April 19, 1989, VA published a proposed rule on the definition of fraud. Interested persons were given until May 19, 1989,

to submit comments on the proposed rule. As no comments were received, the amendment is adopted without change.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this amendment is nonmajor for the following reasons:

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

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

(3) It 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 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: July 13, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR Part 3, Adjudication, is amended to read:

PART 3—ADJUDICATION

§ 3.1 [Amended]

1. In § 3.1(g)(4) remove the citation at the end which reads "(Pub. L. 89-670)".

2. In § 3.1, new paragraph (aa) is added and the crossreference at the end of the section is revised to read as follows:

§ 3.1 Definitions.

* * * * *

(aa) "Fraud":

(1) As used in 38 U.S.C. 103 and implementing regulations, fraud means an intentional misrepresentation of fact, or the intentional failure to disclose pertinent facts, for the purpose of obtaining, or assisting an individual to obtain an annulment or divorce, with knowledge that the misrepresentation or failure to disclose may result in the

erroneous granting of an annulment or divorce; and

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

(2) As used in 38 U.S.C. 110 and 359 and implementing regulations, fraud means an intentional misrepresentation of fact, or the intentional failure to disclose pertinent facts, for the purpose of obtaining or retaining, or assisting an individual to obtain or retain, eligibility for Department of Veterans Affairs benefits, with knowledge that the misrepresentation or failure to disclose may result in the erroneous award or retention of such benefits.

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

Cross-References: Pension. See § 3.3. Compensation. See § 3.4. Dependency and indemnity compensation. See § 3.5. Preservation of disability ratings. See § 3.951. Service-connection. See § 3.957.

[FR Doc. 89-17976 Filed 8-1-89; 8:45 am]

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38 CFR Part 3

RIN 2900-AD98

Benefits at DIC Rates in Certain Cases When Death Was Not Service-Connected

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations concerning the payment of benefits to surviving spouses of certain veterans whose deaths were not service-connected. These changes are required in order to implement liberalizing legislation regarding specific marriage requirements. The intended effect of these changes is to expand eligibility to include those surviving spouses who meet the requirements of the liberalized law.

EFFECTIVE DATE: November 18, 1988.

FOR FURTHER INFORMATION CONTACT:

Donald England, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 30, 1989 (54 FR 13081) VA published a proposed regulatory amendment concerning the payment of benefits at DIC rates to the surviving spouses of certain veterans whose deaths were not service-connected. Interested persons were invited to submit written comments,

suggestions or objections on or before May 1, 1989. Since no comments, suggestions or objections were received the regulation has been adopted as proposed with one technical change: the citation in 38 CFR 3.11 has been amended to reflect the recodification as 38 U.S.C. 418 of material formerly contained in section 410(b).

The Secretary hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that these regulatory amendments are non-major 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 Catalog of Federal Domestic Assistance program number is 64.110.

List of Subjects in 38 CFR Part 3

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

Approved: July 7, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

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

PART 3—ADJUDICATION

§ 3.11 [Amended]

In § 3.11, remove the words "410(b)" where they appear and add, in their place, the words "418".

2. In § 3.22, the introductory text of paragraph (a) and the authority citation for paragraph (e) are revised to read as follows:

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

(a) *Entitlement criteria.* Benefits authorized by section 418 of Title 38, United States Code, shall be paid to a deceased veteran's surviving spouse (see § 3.54(c)(2)) or children in the same manner as if the veteran's death is service connected when the following conditions are met:

(e) * * *

(Authority: 38 U.S.C. 418)

2. In § 3.54, paragraph (c)(2) is revised to read as follows:

§ 3.54 Marriage dates.

(c) *Dependency and indemnity compensation.*

(2) In order for a surviving spouse to be entitled to benefits under section 418 of Title 38, United States Code, in the same manner as if death is service connected, the marriage to the veteran shall have been for a period of not less than 2 years immediately preceding the date of the veteran's death, or for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Authority: 38 U.S.C. 418)

[FR Doc. 89-17979 Filed 8-1-89; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 21

RIN 2900-AD58

Veterans Education; Procedural Protections Following Loss of Dependent

AGENCY: Department of Veterans Affairs.

ACTION: Final regulation.

SUMMARY: This regulation sets out procedures which the Department of Veterans Affairs (VA) will follow when considering reduction of the veteran's educational assistance allowance in certain instances because VA has received evidence that the veteran has lost a dependent. This amended regulation brings the procedures used in such circumstances into agreement with the procedures followed when a veteran is receiving disability compensation or pension and VA receives evidence that the veteran has lost a dependent. The effect of this proposal will be to improve

and more clearly define procedural protections afforded the veteran.

EFFECTIVE DATE: September 1, 1989.

FOR FURTHER INFORMATION CONTACT:

Alan Zoekler, Acting Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 10420 (202) 233-2668.

SUPPLEMENTARY INFORMATION: On pages 5944 and 5945 of the *Federal Register* of February 7, 1989, (54 FR 5944), there was published a notice of intent to amend Part 21 in order to improve and more clearly define the procedural protections afforded a veteran who is receiving educational assistance and has lost a dependent. Interested persons were given 30 days to submit comments, suggestions or objections. VA received no comments, suggestions or objections. Accordingly, VA is making the proposed amended regulation final.

The Department of Veterans Affairs has determined that this amended regulation does not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulation will not have a \$100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. It will have no 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 Secretary of Veterans Affairs certifies that this amended regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulation affects only individuals. It will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.111.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: July 5, 1989.

Edward J. Derwinski,

Secretary of Veterans Affairs.

In 38 CFR Part 21 Vocational Rehabilitation and Education, § 21.4132 is added to read as follows:

PART 21—VOCATIONAL REHABILITATION AND EDUCATION**§ 21.4132 Procedural protections: reduction following loss of a dependent.**

(a) *Notice of reduction required when a veteran loses a dependent.* (1) Except as provided in paragraph (a)(2) of this section, the Department of Veterans Affairs will not reduce an award of educational assistance allowance following the veteran's loss of a dependent unless:

(i) The Department of Veterans Affairs has notified the veteran of the adverse action, and

(ii) The Department of Veterans Affairs has provided the veteran with a period of 60 days in which to submit evidence for the purpose of showing that the educational assistance allowance should not be reduced.

(2) When the reduction is based solely on written, factual, unambiguous information as to dependency or marital status provided by the veteran or his or her fiduciary with knowledge or notice that the information would be used to determine the monthly rate of educational assistance allowance:

(i) The Department of Veterans Affairs is not required to send a prereduction notice as stated in paragraph (a)(1) of this section, but

(ii) The Department of Veterans Affairs will send notice contemporaneous with the reduction in educational assistance allowance.

(Authority: 38 U.S.C. 3012, 3013)

(b) *Prereduction notice.* Where a reduction in educational assistance allowance is warranted by reason of information concerning dependency received from a source other than the veteran, the Department of Veterans Affairs will:

(1) Prepare a proposal for the reduction of educational assistance allowance, setting forth material facts and reasons;

(2) Notify the veteran of his or her latest address of record of the contemplated action;

(3) Furnish detailed reasons for the proposed reduction;

(4) Inform the veteran that he or she has an opportunity for a predetermination hearing, provided that the Department of Veterans Affairs receives a request for such a hearing within 30 days from the date of the notice; and

(5) Give the veteran 60 days for the presentation of additional evidence to show that the educational assistance allowance should be continued at its present level.

(Authority: 38 U.S.C. 3012, 3013)

(c) *Predetermination hearing.* (1) If the Department of Veterans Affairs receives a timely request for a predetermination hearing:

(i) The Department of Veterans Affairs will notify the veteran in writing of the date, time and place for the hearing; and

(ii) Payments of educational assistance allowance will continue at the previously established level pending a final determination concerning the proposed reduction.

(2) The hearing will be conducted by a Department of Veterans Affairs employee:

(i) Who did not participate in the preparation of the proposal to reduce the veteran's educational assistance allowance, and

(ii) Who will bear the decision-making responsibility.

(Authority: 38 U.S.C. 3012, 3013)

(d) *Final action.* The Department of Veterans Affairs will take final action following the predetermination procedures specified in paragraph (c) of this section.

(1) If a predetermination hearing was not requested or if the veteran failed to report for a scheduled predetermination hearing, the final action will be based solely upon the evidence of record.

(2) If a predetermination hearing was conducted, the Department of Veterans Affairs will base final action upon:

(i) Evidence adduced at the hearing,

(ii) Evidence contained in the claims file at the time of the hearing, and

(iii) Any additional evidence obtained following the hearing pursuant to necessary development.

(3) Whether or not a predetermination hearing was conducted, a written notice of the final action shall be issued to the veteran setting forth the reasons for the decision, and the evidence upon which it is based.

(4) When a reduction of educational assistance allowance is found to be warranted following consideration of any additional evidence submitted, the

effective date of the reduction or discontinuance shall be as specified under the provisions of § 21.4135 of this part. (For information concerning the conduct of the hearing see § 3.103 (c) and (d) of this chapter.)

(Authority: 38 U.S.C. 3012, 3013)

[FR Doc. 89-17978 Filed 8-1-89; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180**

[PP 7F3540/R1033; FRL-3622-7]

Pesticide Tolerance for Methyl 2-[[[N-(4-Methoxy-6-Methyl-1,3,5-Triazin-2-yl)Methylamino] Carbonyl]Amino]Sulfonyl] Benzoate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide methyl 2-[[[N-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)methylamino]carbonyl] amino]sulfonyl] benzoate (also known as "Express™") in or on wheat grain at 0.05 part per million (ppm), wheat straw at 0.1 ppm, barley grain at 0.05 ppm, and barley straw at 0.1 ppm. The regulation was requested by E.I. du Pont de Nemours & Co., Inc.

EFFECTIVE DATE: July 14, 1989.

ADDRESS: Written objections, identified by the document control number, [PP 7F3540/R1033], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Larry Schnaubelt, Acting Product Manager (PM) 23, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1830.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register on November 25, 1987 (52 FR 45237) which announced that the E.I. du Pont de Nemours & Co., Inc., Walker's Mill Building, Barley Mill Plaza, Wilmington, DE 19898, has submitted pesticide petition (PP) 7F3540 to EPA proposing to amend 40 CFR Part 180 by establishing tolerances for residues of the herbicide methyl 2-[[[N-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)-methylamino] carbonyl]amino]