

566-1744, and the telephone number for the Air Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Mr. Steve Fruh, Emission Standards Division (C439-02), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541-2837, fax number (919) 541-3207, e-mail address: [fruh.steve@epa.gov](mailto:fruh.steve@epa.gov).

**SUPPLEMENTARY INFORMATION:** On October 13, 2004, we published a direct final rule (69 FR 60813) and a parallel proposal (69 FR 60837) amending the NESHAP for pushing, quenching, and battery stacks at new and existing coke oven batteries (40 CFR part 63, subpart CCCCC). The direct final rule amendments added provisions for a control system not covered by the existing rule, adjusted the parametric operating limits and associated compliance requirements for capture systems used to control pushing emissions, and adjusted the operation and maintenance requirements for capture systems in 40 CFR 63.7300(c)(1).

We stated in the preamble to the direct final rule and parallel proposal that if we received significant adverse comments by November 12, 2004 (or by November 29, 2004 if a public hearing was requested), on one or more distinct provisions of the direct final rule, we would publish a timely notice in the **Federal Register** specifying which provisions will become effective and which provisions will be withdrawn due to adverse comment. We subsequently received adverse comments from one commenter on the amendments to the operation and maintenance requirements for capture systems in 40 CFR 63.7300(c)(1). The direct final amendments to 40 CFR 63.7300(c)(1) included:

- 40 CFR 63.7300(c)(1), which required completion of repairs within 30 days except as allowed in paragraphs (c)(1)(i) and (ii);
- 40 CFR 63.7300(c)(1)(i), which required the facility to notify the permitting authority if the repair could be completed within 60 days; and
- 40 CFR 63.7300(c)(1)(ii), which required the facility to request an extension if the repair could not be completed within 60 days.

Accordingly, we are withdrawing all amendments to 40 CFR 63.7300(c)(1). The amendments are withdrawn as of January 10, 2005. We will take final action on the proposed rule after considering the comment received. We will not institute a second comment period on this action. The provisions for

which we did not receive adverse comment will become effective on January 11, 2005, as provided in the preamble to the direct final rule.

#### List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: January 4, 2005.

**Jeffrey R. Holmstead,**

*Assistant Administrator for Air and Radiation.*

■ Accordingly, the Amendment to 40 CFR 63.7300 (c) (1), published in the **Federal Register** on October 13, 2004 (69 FR 60813) which was to become effective January 11, 2005 is withdrawn.

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## DEPARTMENT OF DEFENSE

### Department of the Navy

**RIN 0703-ZA00**

#### **Policies and Responsibilities for Implementation of SECNAVINST 7220.85, Notice of Back Pay for Members of the Navy and Marine Corps Selected for Promotion While Interned as Prisoners of War (POW) During World War II**

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Policy statement.

**SUMMARY:** The Department of the Navy (DON) hereby gives notice of implementing its instruction (SECNAVINST 7220.85), an internal regulation that establishes the responsibilities and procedures within DON regarding the payment of back pay to any person who, by reason of being interned as a POW while serving as a member of the Navy or Marine Corps during World War II (WW II), was not available to accept a promotion for which the person had been selected.

**DATES:** This rule is effective until January 10, 2007.

**ADDRESSES:** The WW II Prisoner of War Promotion Back Pay Application and all pertinent information should be mailed to Headquarters, U.S. Marine Corps, 2 Navy Annex, RFF-F10, Washington, DC 20380-1775 or Commander, Navy Personnel Command (PERS 62), 5720 Integrity Drive, Millington, TN 38055.

**FOR FURTHER INFORMATION CONTACT:** Deputy Commandant of the Marine Corps for Programs & Resources, [Headquarters, U.S. Marine Corps, 2 Navy Annex, RFF-F10, Washington, DC

20380-1775 / 1-866-472-7139] or Commander, Navy Personnel (PERS 62) [Retired Activities Branch-62, 5720 Integrity Drive, Millington, Tennessee 38055 / (901) 874-4396].

**SUPPLEMENTARY INFORMATION:** Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, sec. 667 (Pub. L. 106-398), directed the DON to pay, from currently available appropriations, back pay to persons interned during World War II, who were selected for promotion but not available to accept the promotion. The Act authorizes payment to the former member or a surviving spouse of the deceased former member. If there is no surviving spouse of the deceased former member, no claim may be paid.

The amount of back pay payable is the amount equal to the difference between:

(1) The total amount of basic pay that would have been paid if the person had been promoted to the grade to which selected; and

(2) The total amount of basic pay that was actually paid.

The back pay computation period is the period:

(1) Beginning on the date as of when that person's promotion would have been effective for pay purposes but for the person's internment as a POW; and

(2) Ending on the earliest of:

(a) The date of the person's discharge or release from active duty;

(b) The date on which the person's promotion to that grade in fact became effective for pay purposes; or

(c) The end of World War II.

To be eligible for payment, claims must be postmarked within 2 years of publication in the **Federal Register**.

#### Definitions

a. World War II. The period of time beginning on December 7, 1941, and ending on December 31, 1946, as defined in 38 U.S.C. 101(8).

b. Surviving spouse. A husband or wife by lawful marriage who out lives the other spouse.

#### Policy

a. DON will take action to ensure that the benefits and eligibility for benefits are widely publicized and that all persons eligible for payment are afforded an opportunity to apply. Notification will be made through all appropriate means such as organizational newsletters, Internet websites, published media, and retiree correspondence.

b. While there is no requirement to submit a POW Promotion Back Pay Application, eligible veterans or surviving spouses must provide the information requested on the POW

Promotion Back Pay Application to the appropriate service point of contact.

c. Notwithstanding any power of attorney, assignment of interest, contract, or other agreement, actual disbursement of a payment under this instruction shall be made only to a person who is eligible as described in the first paragraph of the

**SUPPLEMENTARY INFORMATION.**

d. Notwithstanding any contract, the representative of any eligible person may not receive, for services rendered in connection with the claim of, or with respect to, a person under this instruction, more than 10 percent of the amount of a payment on that claim.

**Responsibilities**

The Under Secretary of the Navy establishes program policy. To support the Under Secretary, the following responsibilities are assigned to the Deputy Commandant of the Marine

Corps for Programs and Resources (RFF) and Commander, Navy Personnel Command (PERS 62) who shall, for their respective Services:

a. Develop program policy and procedures to ensure payment of back pay is made within 18 months of receiving a valid claim;

b. Provide oversight of program implementation;

c. Serve as the focal point inside and outside of their Service for all matters pertaining to the payment of back pay for persons eligible under this regulation;

d. Coordinate service-wide efforts to notify eligible persons;

e. Track and perform follow-up on all applications under this regulation.

**Action**

Deputy Commandant of the Marine Corps for Programs & Resources (RFF), and Commander, Navy Personnel

Command (PERS 62) will publicize this entitlement through various media resources, compile requests, verify eligibility, compute entitlement, and coordinate with Defense Finance Accounting Service (DFAS) to disburse payments for Marine Corps and Navy claims, respectively, for all claims for POW back pay resulting from SECNAVINST 7220.85.

The Department of the Navy has determined that this regulation is not a significant rule as defined by Executive Order 12866 and is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)).

Dated: December 28, 2004.

**J.H. Wagshul,**

*Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.*

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