

million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. VA has examined the economic, legal, and policy implications of this final rule and has concluded that it is not a significant regulatory action under Executive Order 12866.

#### Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### Catalog of Federal Domestic Assistance Numbers and Titles

The Catalog of Federal Domestic Assistance program numbers and titles for this proposal are 64.100, Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces; 64.101, Burial Expenses Allowance for Veterans; 64.102, Compensation for Service-Connected Deaths for Veterans' Dependents; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.106, Specially Adapted Housing for Disabled Veterans; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

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

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

Approved: May 8, 2006.

**Gordon H. Mansfield,**  
Deputy Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR part 3 is 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 3.7 is amended by:

■ a. Revising paragraphs (x)(3), (x)(20), and (x)(23).

■ b. Adding paragraphs (x)(31) through (x)(33) immediately after paragraph (x)(30).

■ c. Removing the second authority citation that appears at the end of paragraph (x).

■ d. Adding paragraph (y) immediately after the authority citation at the end of paragraph (x).

The revisions and additions read as follows:

#### § 3.7 Individuals and groups considered to have performed active military, naval, or air service.

\* \* \* \* \*

(x) \* \* \*

(3) Engineer Field Clerks (WWI).

\* \* \* \* \*

(20) Civilian Crewmen of United States Coast and Geodetic Survey (USCGS) Vessels Who Performed Their Service in Areas of Immediate Military Hazard While Conducting Cooperative Operations with and for the United States Armed Forces Within a Time Frame of December 7, 1941, to August 15, 1945 on a qualifying USCGS vessel. Qualifying USCGS vessels are the Derickson, Explorer, Gilbert, Hilgard, E. Lester Jones, Lydonia, Patton, Surveyor, Wainwright, Westdahl, Oceanographer, Hydrographer, and Pathfinder.

\* \* \* \* \*

(23) U.S. Civilian Flight Crew and Aviation Ground Support Employees of Transcontinental and Western Air (TWA), Inc., Who Served Overseas as a Result of TWA's Contract with the Air Transport Command During the Period December 14, 1941, through August 14, 1945. The "Flight Crew" includes pursers.

\* \* \* \* \*

(31) The approximately 50 Chamorro and Carolinian former native policemen who received military training in the Donnal area of central Saipan and were placed under the command of Lt. Casino of the 6th Provisional Military Police Battalion to accompany United States Marines on active, combat-patrol activity from August 19, 1945, to September 2, 1945.

(32) Three scouts/guides, Miguel Tenorio, Penedicto Taisacan, and Cristino Dela Cruz, who assisted the United States Marines in the offensive operations against the Japanese on the Northern Mariana Islands from June 19, 1944, through September 2, 1945.

(33) The Operational Analysis Group of the Office of Scientific Research and

Development, Office of Emergency Management, which served overseas with the U.S. Army Air Corps from December 7, 1941, through August 15, 1945.

\* \* \* \* \*

(y) *Alaska Territorial Guard*: Members of the Alaska Territorial Guard during World War II who were honorably discharged from such service as determined by the Secretary of Defense.

**Authority:** 38 U.S.C 106(f).

[FR Doc. 06-4671 Filed 5-18-06; 8:45 am]

BILLING CODE 8320-01-P

#### DEPARTMENT OF VETERANS AFFAIRS

##### 38 CFR Part 3

RIN 2900-AM24

##### Remarriage of a Surviving Spouse

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is issuing this final rule to amend its adjudication regulations regarding benefits for surviving spouses to reflect statutory changes that affect the eligibility of those surviving spouses who remarry after ages 55 and 57. These amendments are necessary to conform the regulations to statutory provisions.

**DATES:** *Effective Date:* This final rule is effective May 19, 2006.

*Applicability Dates:* VA will apply the amendments in this final rule to 38 CFR 3.55 in accordance with the effective dates specified by Congress for the statutory changes reflected in this rule. Accordingly, the amendment that adds 38 CFR 3.55(a)(9) will apply to CHAMPVA eligibility for periods on or after February 4, 2003. The amendment that adds 38 CFR 3.55(a)(10) will apply to the benefits specified in that paragraph for periods on or after January 1, 2004. See the **SUPPLEMENTARY INFORMATION** section for additional information pertaining to dates of remarriage.

##### FOR FURTHER INFORMATION CONTACT:

Maya Ferrandino, Consultant, Compensation and Pension Service, Policy and Regulations Staff, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-7211.

**SUPPLEMENTARY INFORMATION:** The Veterans Benefits Act of 2002, Public Law 107-330, and the Veterans Benefits Act of 2003, Public Law 108-183, amended title 38, United States Code, to provide eligibility for certain VA

benefits to surviving spouses of veterans who remarry after age 55 or age 57. VA is amending 38 CFR 3.55 as described in this final rule to reflect current statutory provisions.

#### **The Veterans Benefits Act of 2002**

Section 101 of the Veterans Benefits Act of 2002 amended 38 U.S.C. 103, Special provisions relating to marriages, regarding benefits for veterans' surviving spouses who remarry after a certain age. The amendment redesignated the text of former section 103(d)(2) as 103(d)(2)(A), and added a new section 103(d)(2)(B). Section 103(d)(2)(B) states that a surviving spouse's remarriage after age 55 shall not bar the furnishing of CHAMPVA medical care benefits under 38 U.S.C. 1781 to such person as the surviving spouse of the veteran. The effective date of the amendment is February 4, 2003, sixty days after the date of the enactment of the Act, December 6, 2002.

Section 101 of the 2002 Act also provided that surviving spouses who remarried prior to December 6, 2002, but after attaining age 55, may be eligible for CHAMPVA, but only if VA received an application during the one-year period ending on February 4, 2003. We believe Congress intended also to authorize CHAMPVA benefits to surviving spouses who remarried during the period between the enactment date (December 6, 2002) and effective date (February 3, 2003) of the 2002 Act, without regard to the one-year filing period applicable to remarriages before December 6, 2002. However, the effective date of the award of benefits for these surviving spouses may not be earlier than the effective date of the change in the law, February 4, 2003.

#### **The Veterans Benefits Act of 2003**

A technical correction in section 101 of the Veterans Benefits Act of 2003 revised section 101 of the 2002 Act to state that VA must receive the surviving spouse's application for CHAMPVA before the end of the one-year period beginning on December 16, 2003, the date of enactment of the Veterans Benefits Act of 2003. The 2002 Act, as amended, thus allows surviving spouses who remarried after age 55 and before December 6, 2002, to apply for CHAMPVA benefits provided VA received an application for benefits before December 16, 2004 (the end of the one-year period beginning on the date of the enactment of the Veterans Benefit Act of 2003).

Section 101 of the 2003 Act also amended 38 U.S.C. 103(d)(2)(B) concerning eligibility requirements for certain survivor's benefits for remarried

surviving spouses. This amendment preserves potential eligibility for the following benefits for surviving spouses who remarry after age 57: dependency and indemnity compensation under 38 U.S.C. 1311; CHAMPVA under 38 U.S.C. 1781; educational assistance under chapter 35 of title 38, United States Code; and housing loans under chapter 37 of title 38, United States Code. Section 101 of the 2003 Act additionally amended 38 U.S.C. 1311 consistent with the amendment to section 103. This amendment does not affect the provision of CHAMPVA benefits under the 2002 Act to surviving spouses who remarry after age 55.

Other provisions in section 101 of the 2003 Act establish January 1, 2004, as the effective date for that section. Thus, no benefits may be paid to a surviving spouse based on the amendments for any period before January 1, 2004. Also, surviving spouses who remarried after age 57 but before December 16, 2003, may be eligible for the benefits, but only if VA received an application before December 16, 2004. The amendments also apply to surviving spouses who remarried after age 57 and during the period December 16, 2003, through December 31, 2003, without regard to the filing deadline applicable to earlier remarriages. However, the effective date of the award of benefits for these surviving spouses may not be earlier than the effective date of the change in the law, January 1, 2004.

VA's regulation regarding the effect of remarriage upon a surviving spouse's eligibility for benefits is 38 CFR 3.55, Reinstatement of benefits eligibility based upon terminated marital relationships. This final rule adds new § 3.55(a)(9) to reflect the amendments to 38 U.S.C. 103 in section 101 of the 2002 Act, which will include the application criteria from that Act, as amended by the technical correction in section 101(f) of the 2003 Act. This final rule also adds new § 3.55(a)(10) to reflect the amendments to 38 U.S.C. 103 in section 101 of the 2003 Act, and the application criteria from that Act.

Finally, this rule revises the statutory citations in § 3.55(a)(4) and (a)(7) to reflect the redesignation of 38 U.S.C. 1713 as 38 U.S.C. 1781 in Public Law 107-135, effective January 23, 2002.

#### **Administrative Procedure Act**

Changes made by this final rule restate current statutory provisions, and make 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. 553.

#### **Paperwork Reduction Act**

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

#### **Regulatory Flexibility Act**

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. 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 analysis requirements of sections 603 and 604.

#### **Executive Order 12866**

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Order classifies a rule as a significant regulatory action requiring review by the Office of Management and Budget if it meets any one of a number of specified conditions, including: having an annual effect on the economy of \$100 million or more, creating a serious inconsistency or interfering with an action of another agency, materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues. VA has examined the economic, legal, and policy implications of this final rule and has concluded that it is not a significant regulatory action under Executive Order 12866.

#### **Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more (adjusted annually for inflation) in any given year. This rule would have no such effect on State, local, and tribal governments, or the private sector.

#### **Catalog of Federal Domestic Assistance Numbers**

The Catalog of Federal Domestic Assistance program numbers for this proposal are 64.100, Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the

Armed Forces; 64.101, Burial Expenses Allowance for Veterans; 64.102, Compensation for Service-Connected Deaths for Veterans' Dependents; 64.103, Life Insurance for Veterans; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.106, Specially Adapted Housing for Disabled Veterans; 64.109, Veterans Compensation for Service-Connected Disability; 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death; 64.114, Veterans Housing-Guaranteed and Insured Loans; 64.115, Veterans Information and Assistance; 64.116, Vocational Rehabilitation for Disabled Veterans; 64.117, Survivors and Dependents Educational Assistance; 64.118, Veterans Housing-Direct Loans for Certain Disabled Veterans; 64.119, Veterans Housing-Manufactured Home Loans; 64.120, Post-Vietnam Era Veterans' Educational Assistance; 64.124, All-Volunteer Force Educational Assistance; 64.125, Vocational and Educational Counseling for Servicemembers and Veterans; 64.126, Native American Veteran Direct Loan Program; 64.127, Monthly Allowance for Children of Vietnam Veterans Born with Spina Bifida; and 64.128, Vocational Training and Rehabilitation for Vietnam Veterans' Children with Spina Bifida or Other Covered Birth Defects.

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

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

Approved: March 1, 2006.

**Gordon H. Mansfield,**

*Deputy Secretary of Veterans Affairs.*

■ For the reasons set out in the preamble, VA amends 38 CFR part 3 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 3.55 is amended by:

■ a. In paragraph (a)(4), removing “38 U.S.C. 1713” and adding, in its place, “38 U.S.C. 1781”.

■ b. In paragraph (a)(7), removing “38 U.S.C. 1713” and adding, in its place, “38 U.S.C. 1781”.

■ c. Adding paragraphs (a)(9) and (a)(10).

The additions read as follows:

##### § 3.55 Reinstatement of benefits eligibility based upon terminated marital relationships.

(a) \* \* \*

(9) Benefits under 38 U.S.C. 1781 for a surviving spouse who remarries after age 55. (i) On or after February 4, 2003, the remarriage of a surviving spouse after age 55 shall not bar the furnishing of benefits relating to medical care for survivors and dependents under 38 U.S.C. 1781, subject to the limitation in paragraph (a)(9)(ii) of this section.

(ii) A surviving spouse who remarried after the age of 55, but before December 6, 2002, may be eligible for benefits relating to medical care for survivors and dependents under 38 U.S.C. 1781 pursuant to paragraph (a)(9)(i) only if the application for such benefits was received by VA before December 16, 2004.

(Authority: 38 U.S.C. 103).

(10) Benefits for a surviving spouse who remarries after age 57. (i) On or after January 1, 2004, the remarriage of a surviving spouse after the age of 57 shall not bar the furnishing of benefits relating to dependency and indemnity compensation under 38 U.S.C. 1311, medical care for survivors and dependents under 38 U.S.C. 1781, educational assistance under 38 U.S.C. chapter 35, or housing loans under 38 U.S.C. chapter 37, subject to the limitation in paragraph (a)(10)(ii) of this section.

(ii) A surviving spouse who remarried after the age of 57, but before December 16, 2003, may be eligible for dependency and indemnity compensation under 38 U.S.C. 1311, medical care for survivors and dependents under 38 U.S.C. 1781, educational assistance under 38 U.S.C. chapter 35, or housing loans under 38 U.S.C. chapter 37 pursuant to paragraph (a)(10)(i) only if the application for such benefits was received by VA before December 16, 2004.

(Authority: 38 U.S.C. 103).

[FR Doc. 06-4672 Filed 5-18-06; 8:45 am]

**BILLING CODE 8320-01-P**

#### DEPARTMENT OF DEFENSE

##### Defense Acquisition Regulations System

##### 48 CFR Parts 211 and 252

RIN 0750-AF31

##### Defense Federal Acquisition Regulation Supplement; Radio Frequency Identification (DFARS Case 2006-D002)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Interim rule with request for comments.

**SUMMARY:** DoD has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to include additional commodities and DoD locations that require package marking with passive radio frequency identification (RFID) tags. The rule requires contractors to affix passive RFID tags at the case and palletized unit load levels when shipping packaged petroleum, lubricants, oils, preservatives, chemicals, additives, construction and barrier materials, and medical materials to specified DoD locations.

**DATES:** *Effective date:* May 19, 2006.

*Comment date:* Comments on the interim rule should be submitted in writing to the address shown below on or before July 18, 2006, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2006-D002, using any of the following methods:

• Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

• E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2006-D002 in the subject line of the message.

• Fax: (703) 602-0350.

• Mail: Defense Acquisition Regulations System, Attn: Ms. Robin Schulze, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

• Hand Delivery/Courier: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Robin Schulze, (703) 602-0326.

**SUPPLEMENTARY INFORMATION:**