

**PART 943—TEXAS**

1. The authority citation for Part 943 continues to read as follows:

**Authority:** 30 U.S.C. 1201 *et seq.*

2. Section 943.15 is amended in the table by adding a new entry in chronological order by "Date of Final Publication" to read as follows:

**§ 943.15 Approval of Texas regulatory program amendments.**

\* \* \* \* \*

Original amendment submission date	Date of final publication	Citation/description
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October 21, 1996 .....	April 29, 1997	TCMR 701.008(77); 779.130; 816.352.

[FR Doc. 97-10993 Filed 4-28-97; 8:45 am]

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**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 3**

**RIN 2900-A177**

**Compensation for Certain Undiagnosed Illnesses**

**AGENCY:** Department of Veterans Affairs.

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

**SUMMARY:** The Department of Veterans Affairs (VA) is amending its adjudication regulations regarding compensation for disabilities resulting from undiagnosed illnesses suffered by Persian Gulf Veterans. This amendment is necessary to expand the period within which such disabilities must become manifest to a compensable degree in order for entitlement for compensation to be established. The intended effect of this amendment is to ensure that veterans with compensable disabilities due to undiagnosed illnesses that may be related to active service in the Southwest Asia theater of operations during the Persian Gulf War may qualify for benefits.

**DATES:** *Effective date:* November 2, 1994. *Comment date:* Comments must be received by VA on or before June 30, 1997.

**ADDRESSES:** Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-A177." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273-7230.

**SUPPLEMENTARY INFORMATION:** In response to the needs and concerns of Persian Gulf veterans, Congress enacted the "Persian Gulf War Veterans' Benefits Act," Title I of the "Veterans' Benefits Improvements Act of 1994," Pub. L. 103-446. That statute added a new section 1117 to Title 38, United States Code, authorizing the Secretary of Veterans Affairs to compensate any Persian Gulf veteran suffering from chronic disability resulting from an undiagnosed illness or combination of undiagnosed illnesses that became manifest either during active duty in the Southwest Asia theater of operations during the Persian Gulf War or to a degree of ten percent or more within a presumptive period, as determined by the Secretary, following service in the Southwest Asia theater of operations during the Persian Gulf War. The statute specified that in establishing a presumptive period the Secretary should review any credible scientific or medical evidence, the historical treatment afforded other diseases for which service connection is presumed, and other pertinent circumstances regarding the experience of Persian Gulf veterans.

In the **Federal Register** of February 3, 1995, VA published a final rule adding a new § 3.317 to title 38, Code of Federal Regulations, to establish the regulatory framework necessary for the Secretary to pay compensation under the authority granted by the Persian Gulf War Veterans' Benefits Act (See 60 FR 6660-6666). As part of that rulemaking, having determined that there was little or no scientific or medical evidence at that time that would be useful in determining an appropriate presumptive period, VA established a two-year-post-Gulf-service presumptive period based on the historical treatment of disabilities for which manifestation periods had been established and pertinent

circumstances regarding the experiences of Persian Gulf veterans as they were then known.

Because of growing concerns regarding the adequacy of the two-year presumptive period for undiagnosed illnesses, the Secretary recently held a series of veterans' forums nationwide and consulted with members of Congress as well as the leadership of the national veterans' service organizations on the issue of that presumptive period. The Secretary has concluded that the two-year presumptive period is inadequate because: (1) Despite a broad federal research effort, there is insufficient data about the nature and causes of these illnesses to justify limiting the presumptive period to two years; and (2) it prevents VA from compensating certain veterans with disabilities due to undiagnosed conditions that may have resulted from their service in the Persian Gulf War. Based upon the consensus concerning the inadequacy of the current presumptive period and the continuing medical and scientific uncertainty about the nature and causes of these illnesses, the Secretary has determined that the presumptive period should be extended to disabilities due to undiagnosed illnesses that become manifest through the year 2001. By then, it is anticipated, results of ongoing research may shed more light on these issues to guide future policies.

We are making this amendment effective November 2, 1994, the effective date of Title I of Pub. L. 103-446, in order to ensure that all Persian Gulf War veterans suffering from disabilities resulting from undiagnosed illnesses receive the benefits that Congress mandated when it enacted Pub. L. 103-446.

We also are amending the authority citation following 38 CFR 3.317 to cite 38 U.S.C. 1117 rather than the Public Law that added that section to the statute.

We are making this document effective on an emergency basis. We have found good cause for concluding that notice and public procedure

thereon are impracticable, unnecessary, and contrary to the public interest since veterans entitled to compensation must be provided such compensation promptly to help them meet their financial obligations.

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 (RFA), 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.

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

The Catalog of Federal Domestic Assistance program numbers are 64.109 and 64.110.

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

Administrative practice and procedure, Claims, Health care, Individuals with disabilities, Pensions, Veterans.

Approved: March 24, 1997.

**Jesse Brown,**  
*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.

##### § 3.317 [Amended]

2. In § 3.317, paragraph (a)(1)(i) is amended by removing “two years after the date on which the veteran last performed active military, naval, or air service in the Southwest Asia theater of operations during the Persian Gulf War” and adding, in its place, “December 31, 2001”.

3. In § 3.317, the authority citation immediately following paragraph (d)(2) is revised to read as follows:

##### § 3.317 Compensation for certain disabilities due to undiagnosed illnesses.

\* \* \* \* \*

**Authority:** 38 U.S.C. 1117.

[FR Doc. 97-11055 Filed 4-28-97; 8:45 am]

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[VA068-5018a and VA066-5018a; FRL-5815-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Virginia: Withdrawal of the Direct Final Rule Approving the Redesignation of the Hampton Roads Ozone Nonattainment Area

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

**ACTION:** Withdrawal of a direct final rule.

**SUMMARY:** On March 12, 1997, EPA published a direct final rule approving the Commonwealth of Virginia's request to redesignate the Hampton Roads area from marginal ozone nonattainment to attainment. The direct final rule also approved, as a state implementation plan (SIP) revision, the 10 year maintenance plan and mobile emissions budget developed for the Hampton Roads area and submitted by the Commonwealth. Because EPA received adverse comments on this direct final action within the 30 day public comment period, it is withdrawing the March 12, 1997 direct final rulemaking action pertaining to the Hampton Roads nonattainment area.

**DATES:** This action is effective April 25, 1997.

#### FOR FURTHER INFORMATION CONTACT:

Kristeen Gaffney, Ozone/Carbon Monoxide and Mobile Sources Section (3AT21), USEPA—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, or by telephone at: (215) 566-2092. Questions may also be addressed via e-mail, at the following address: Gaffney.Kristeen@epamail.epa.gov [PLEASE note that only written comments can be accepted for inclusion in the docket.]

**SUPPLEMENTARY INFORMATION:** On March 12, 1997, EPA published a direct final rule [62 FR 11337] approving the Commonwealth of Virginia's request to redesignate the Hampton Roads marginal ozone nonattainment area from nonattainment to attainment and the 10 year maintenance plan and mobile emissions budget submitted by the Commonwealth for the Hampton Roads area as revisions to the Virginia SIP. As stated in the March 12, 1997 rulemaking document, EPA's action to approve the redesignation was based upon its review of the Commonwealth's submittal and its determination that all five of the Clean Air Act's criteria for redesignation

have been met by and for the Hampton Roads area. The ambient air quality data monitored in the Hampton Roads area indicated that it had attained the National Ambient Air Quality Standard (NAAQS) for ozone for the years 1993-1995. Review of the data monitored in 1996 has indicated continued attainment of the ambient standard. EPA also determined that the Commonwealth had a fully approved Part D SIP for the Hampton Roads area, was fully implementing that SIP, and that the air quality improvement in the Hampton Roads area was due to permanent and enforceable control measures. In the same rulemaking, EPA approved the maintenance plan submitted by the Commonwealth of Virginia as a SIP revision because it provides for maintenance of the ozone standard for 10 years and a mobile emissions budget for the Hampton Roads area.

In its March 12, 1997 rulemaking, EPA stated that if adverse comments were received on the direct final rule within the 30 days of its publication, EPA would publish a document announcing the withdrawal of its direct final rulemaking action. Because EPA received adverse comments on the direct final rulemaking within the prescribed comment period from the Allies in Defense of Cherry Point and U.S. Senator Lauch Faircloth of North Carolina, EPA is withdrawing the March 12, 1997 final rulemaking action pertaining to the Hampton Roads nonattainment area.

In a companion proposed rulemaking published in the Proposed Rules section of the same **Federal Register**, EPA stated that if adverse comments were received on the direct final action within 30 days of its publication, it would withdraw the direct final rule. In their letter submitting adverse comments, the Allies in Defense of Cherry Point also indicated that they intended to submit additional adverse comments and requested that the comment period be extended.

In a subsequent rulemaking document, EPA will reopen the comment period on the March 12, 1997 proposed rule.

In determining its final action on the Commonwealth's redesignation request and maintenance plan for the Hampton Roads area, EPA shall consider all comments received on its March 12, 1997 proposed action.

Dated: April 14, 1997.

**William T. Wisniewski,**  
*Acting Regional Administrator, Region III.*

Therefore the amendments to 40 CFR parts 52 and 81 which added