

SUPPLEMENTARY INFORMATION: On April 18, 1997, the Architectural and Transportation Barriers Compliance Board (Access Board) published a notice of intent to establish a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans with Disabilities Act and the Architectural Barriers Act. 62 FR 19084 (April 18, 1997). The notice identified the interests that are likely to be significantly affected by the accessibility guidelines: State and local governments; individuals with disabilities; designers; conservation groups; trails groups; and private sector camping facilities. The notice proposed a list of 19 organizations to represent these interests on the regulatory negotiation committee. Comments were requested on the proposal to establish the regulatory negotiation committee and the proposed committee membership.

The comments supported the establishment of the regulatory negotiation committee. Six more organizations have been added to the regulatory negotiation committee in response to the comments. The following 25 organizations will comprise the regulatory negotiation committee:

American Association of Landscape Architects
 American Camping Association
 American Trails
 Appalachian Trail Conference
 Hawaii Commission on Persons with Disabilities
 KOA (Kampgrounds of America), Inc.
 National Association of State Park Directors
 National Association of State Trail Administrators
 National Center on Accessibility
 National Council on Independent Living
 National Parks and Conservation Association
 National Recreation and Park Association
 National Spinal Cord Injury Association
 New York State Department of Environmental Conservation, Bureau of Public Lands
 Paralyzed Veterans of America
 Partners for Access to the Woods
 Rails to Trails Conservancy
 State of Washington, Interagency Committee for Outdoor Recreation
 TASH (The Association of Severely Handicapped)
 U.S. Architectural and Transportation Barriers Compliance Board
 U.S. Army Corps of Engineers
 U.S. Department of Agriculture, Forest Service

U.S. Department of the Interior, National Park Service
 U.S. Department of Transportation, Federal Highway Administration
 Whole Access

The first meeting of the regulatory negotiation committee will be held in Washington, DC on June 26 and 27, 1997. The times and location of the meeting are listed at the beginning of this notice. The meeting is open to the public. The meeting site is accessible to individuals with disabilities. Individuals with hearing impairments who require sign language interpreters should contact Peggy Greenwell by June 18, 1997 by calling (202) 272-5434 extension 34 (voice) or (202) 272-5449 (TTY).

Dated: May 29, 1997.

Patrick D. Cannon,

Chair, Architectural and Transportation Barriers Compliance Board.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AI42

Claims Based on Aggravation of a Nonservice-Connected Disability

AGENCY: Department of Veterans Affairs.
ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations concerning secondary service connection for certain disabilities. This proposal is based on a recent decision by the United States Court of Veterans Appeals (CVA). The intended effect of this amendment is to conform VA regulations to the CVA decision, which clarified the circumstances under which veterans may be compensated for disabilities related to service-connected conditions.

DATES: Comments must be received by VA on or before August 4, 1997.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management, Room 1154, 810 Vermont Ave., NW., Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AI42." All written comments will be made available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT:

Judith Veres, Consultant, Judicial Review Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 273-7240.

SUPPLEMENTARY INFORMATION: Under the provisions of 38 U.S.C. 1110 and 1131, VA may establish service connection for disabilities resulting from disease or injury incurred or aggravated during a veteran's period of active military, naval, or air service. Once service connection is established for a veteran's disability, VA may authorize monetary compensation depending on the disability's level of severity. In addition, under 38 CFR 3.310, VA may establish service connection for a disability which is proximately due to or the result of a service-connected disease or injury.

In *Allen v. Brown*, 7 Vet. App. 439, 448 (1995), issued March 17, 1995, CVA held that, as a matter of law, when aggravation of a veteran's nonservice-connected condition is proximately due to or the result of a service-connected condition, the veteran is entitled to compensation for the degree of disability (but only that degree) over and above the degree of disability existing prior to aggravation. Prior to CVA's holding, VA paid compensation for a disability on a secondary basis only if the secondary condition was entirely caused by a service-connected disability. To conform § 3.310 to CVA's decision, VA is proposing to amend 38 CFR 3.310 to authorize compensation for the incremental increase in severity of a nonservice-connected disability which is proximately due to or the result of a service-connected condition.

In order to determine whether, and to what extent, a service-connected disease or injury has aggravated a non service-connected disability, VA must be able to determine the pre-aggravation severity of the disability in question. We, therefore, propose to stipulate that VA will not concede aggravation unless it has medical evidence, which pre-existed the aggravation, sufficient to establish the pre-aggravation severity of the condition. Since some conditions are inherently progressive and worsen naturally over time, we propose to specify that VA will not service-connect any increase in severity that is due to natural progression. These requirements would be consistent with the manner in which VA determines the degree of in-service aggravation of pre-existing disabilities, i.e., by comparing the severity of the condition when the veteran entered and left active military

service and excluding from consideration any increase in severity that is due to the natural progression of the condition. As with all other disabilities evaluated for VA purposes, the level of compensation would be determined under the provisions of VA's Schedule for Rating Disabilities.

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 this amendment 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 analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program number is 64.109.

List of Subjects in 38 CFR Part 3

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

Approved: May 27, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is proposed to be amended as set forth below:

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 3.310 is amended by revising the section heading; by redesignating paragraph (b) as paragraph (c); and by adding a new paragraph (b) to read as follows:

§ 3.310 Disabilities that are proximately due to, or aggravated by, service-connected disease or injury.

* * * * *

(b) *Aggravation of nonservice-connected disabilities.* Any increase in severity of a nonservice-connected disability that is proximately due to or the result of a service-connected disease or injury, rather than the normal progression of the disability, shall be service-connected. However, VA will not concede that a nonservice-connected disability was aggravated by

a service-connected disease or injury in the absence of medical evidence extant before the aggravation sufficient to establish the pre-aggravation severity of the disability. The rating activity will determine the pre- and post-aggravation levels of severity under the Schedule for Rating Disabilities and determine the extent of aggravation by deducting the pre-aggravation level of severity, as well as any increase in severity due to the normal progression of the disability, from the current level.

(Authority: 38 U.S.C. 1110 and 1131)

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 63, 260, 261, 264, 265, 266, 270, and 271

[FRL-5834-5]

Revised Technical Standards for Hazardous Waste Combustion Facilities; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability; extension of comment period.

SUMMARY: Since publication of the notice of data availability (62 FR 24212 (May 2, 1997)), EPA has received several requests to extend the comment period. Accordingly, the Agency is extending the comment period 15 days to June 17, 1997.

DATES: The comment period is extended to June 17, 1997.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F-97-CS4A-FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, S.W., Washington, DC 20460. Deliveries of comments should be made to the Arlington, Virginia address listed below. Comments may be submitted electronically through the Internet to: rcra-docket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F-97-CS4A-FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. For other information regarding submitting comments or viewing the comments received or supporting

information, please refer to the proposed rule (61 FR 17358 (April 19, 1996)).

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of the CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, S.W., Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC): Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays. To review docket materials, the public must make an appointment by calling 703-603-9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost \$0.15 per page.

FOR FURTHER INFORMATION CONTACT:

Larry Denyer, Office of Solid Waste (5302W), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460, 703-308-8770, e-mail address: denyer.larry@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: On May 2, 1997, EPA published a notice of data availability. See 62 FR 24212. The Agency established a 30-day comment period and indicated that comments on the proposal would be accepted until June 2, 1997.

To date, EPA has received requests to extend the comment period from Ash Grove Cement Company, Cement Kiln Recycling Coalition, Chemical Manufacturers Association, Coalition for Responsible Waste Incineration, Holnam, Molten Metal Technology, Safety-Kleen, and Solite. Commenters felt the complexity of some of the issues in the NODA and the availability of certain data fields within the emissions database warranted an extension. Accordingly, the Agency is extending the comment period 15 days to June 17, 1997 to provide for a 45-day comment period.

Readers should again note that only comments about new information discussed in the May 2, 1997 notice will be considered by the Agency. Issues related solely to the April 19, 1996 proposed rule and other subsequent notices that are not directly affected by the documents or data referenced in today's Notice of Data Availability are not open for further comment.