

superintendent has determined that such activity is consistent with public safety and enjoyment, and sound resource management principles. The NPS has reviewed the previous GMP/EA and the environmental impacts associated with implementing this regulation and has analyzed whether environmental changes since the original issuance of the environmental assessment would trigger additional compliance activities under the National Environmental Policy Act of 1969. Based on that review, the NPS has determined that the regulation is not in conflict with the Final GMP and that there have been no changes to conditions that would require additional NEPA compliance. In addition, when viewed in the context of current Department of the Interior and NPS standards of review, the regulation is covered by a categorical exclusion (516 DM 6, Appendix 7.4 A.10; RM 12.3.4.A(8)), and no exceptions to categorical exclusions (516 DM 2, Appendix 2; RM-12.3.5) apply to the regulation. As a result, the NPS is not legally required to prepare, and has not prepared, either an additional environmental assessment or an Environmental Impact Statement.

#### *Government-to-Government Relationship With Tribes*

In accordance with Executive Order 13175 "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249), the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), and 512 DM 2 we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects; the rule will simply continue an activity that has been ongoing since before the NPS.

#### **Public Comment Solicitation**

If you wish to comment, you may submit your comments by any one of several methods. You may:

(1) Mail or hand deliver comments to the park Superintendent at National Park Service, Park Headquarters, New River Gorge NR, P.O. Box 246, Glen Jean, West Virginia 25846.

(2) Send comments by e-mail to [neri\\_hunting@nps.gov](mailto:neri_hunting@nps.gov); or by fax to (304) 465-6559.

(3) Comment via the Internet to [neri\\_hunting@nps.gov](mailto:neri_hunting@nps.gov).

Please include "NERI Hunting Rule" in the subject line and your name and return address in the body of your message. Our practice is to make comments, including names and

addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

#### **Clarity of This Regulation**

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "\$" and a numbered heading; for example § 7.89 New River Gorge National River.) (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand? Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may also e-mail the comments to this address: [Exsec@ios.doi.gov](mailto:Exsec@ios.doi.gov).

**Drafting Information:** The primary authors of this regulation were Patricia Sheehan, NPS Northeast Regional Office; Chick Fagan, NPS Office of Policy and Regulations; Calvin Hite, Superintendent, New River Gorge National River; and Jason Waanders, Office of the Solicitor, Department of the Interior.

#### **List of Subjects in 36 CFR Part 7**

District of Columbia, National parks, Reporting and recordkeeping requirements.

#### **The Interim Final Rule**

■ For the reasons stated in the preamble, the NPS amends the Special Regulations, Areas of the National Park System (36 CFR part 7) to read as follows:

#### **PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM**

■ 1. The authority citation for part 7 continues to read as follows:

**Authority:** 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8-137 (1981) and D.C. Code 40-721 (1981).

■ 2. Add § 7.89 to read as follows:

##### **§ 7.89 New River Gorge National River.**

(a) *Hunting.* (1) *May I hunt within New River Gorge National River?* Yes, you may hunt if you:

(i) Possess a valid West Virginia State hunting license or permit, or are exempt under provisions of West Virginia law.

(ii) Comply with the hunting seasons, harvest limits, and any other conditions established by the State of West Virginia.

(iii) Do not violate any closures or limitations established by the Superintendent for reasons of public safety, resource protection, or other management considerations.

(2) *Do West Virginia state hunting laws apply within New River Gorge National River?* Yes, non-conflicting State hunting laws are adopted as part of the regulations in this section and apply within New River Gorge National River.

(b) [Reserved]

Dated: September 9, 2003.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 03-24174 Filed 9-24-03; 8:45 am]

BILLING CODE 4310-16-P

#### **DEPARTMENT OF VETERANS AFFAIRS**

##### **38 CFR Part 1**

RIN 2900-AL40

#### **Eligibility for an Appropriate Government Marker for a Grave Already Marked at Private Expense**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Interim final rule.

**SUMMARY:** This document amends Department of Veterans Affairs (VA) regulations to reflect changes made by the Veterans Education and Benefits

Expansion Act of 2001 and the Veterans Benefits Act of 2002. Those changes allow VA to furnish an appropriate Government marker for the grave of an eligible veteran buried in a private cemetery, regardless of whether the grave is already marked with a privately purchased marker. Pursuant to the Veterans Benefits Act of 2002, the provisions of this interim final rule shall apply to requests to mark graves or memorialize eligible veterans whose deaths occurred on or after September 11, 2001.

**DATES:** *Effective Date:* September 25, 2003.

*Comment Date:* VA must receive comments on or before November 24, 2003.

*Applicability Date:* The provisions of 38 CFR 1.631 apply to deaths occurring on or after September 11, 2001.

**ADDRESSES:** Mail or hand-deliver written comments to: Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room, 1068, Washington, DC 20420; or fax comments to (202) 273-9026; or e-mail comments to [OGCRegulations@mail.va.gov](mailto:OGCRegulations@mail.va.gov). Comments should indicate that they are submitted in response to "RIN 2900-AL40." All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** David K. Schettler, Director of Memorial Programs Service (MPS), National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Telephone: (202) 501-3100 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** VA's National Cemetery Administration (NCA) is responsible for administering VA's headstone and marker program. In fiscal year 2002, NCA furnished 348,866 markers for eligible veterans' graves located around the world.

The original purpose of the program, which began over 140 years ago, during the Civil War, was based on the principle that no veteran should lie in an unmarked grave. Before the Veterans Education and Benefits Expansion Act of 2001, Public Law 107-103, was passed, VA was restricted by statute from furnishing a marker for an already marked grave. VA considers a grave marked if there is a marker on the site that displays the decedent's name and dates of birth and death. Under prior law, families had to choose between ordering a Government or a private

marker. As amended by Public Law 107-103, the statute now allows VA to furnish an appropriate Government marker to commemorate an individual's military service, regardless of whether the grave is already marked with a non-Government marker. Pursuant to the Veterans Benefits Act of 2002, Public Law 107-330, this expanded authority applies to markers for the graves of individuals who die on or after September 11, 2001.

Although the statute specifies that an appropriate marker furnished under this authority must be placed on the veteran's grave, VA is interpreting this requirement broadly to accommodate "burials" that do not leave room for a second marker. For instance, when cremated remains are inurned in the ground or placed within a columbarium or similar structure, there often is no space for the placement of more than one marker. The current trend in burials is that cremation rates are rising—the Cremation Association of North America estimates that the cremation rate in the United States was 26 percent in 2000. This is an increase from 21 percent in 1996, and the Association projects that the cremation rate will rise to almost 40 percent by 2010.

VA believes that Congress did not intend VA to deny a request for a Government marker for an eligible veteran who was cremated. Therefore, for those gravesites that cannot physically accommodate an additional marker, VA will furnish a marker under the condition that it is placed as close to the grave as possible within the grounds of the private cemetery where the grave is located.

The law also specifies that any marker furnished under this authority shall be delivered directly to the cemetery where the veteran's grave is located. When an applicant completes an application (VA Form 40-1330), he or she must indicate the location of the cemetery where the deceased is interred, as well as the name and address of the person, cemetery representative or official (consignee) who will accept prepaid delivery of the marker. In many cases, particularly at smaller private cemeteries, no one is available to receive the marker. Currently, in these cases, the marker is delivered to a funeral home or mortuary, the town hall, a veterans' service office or, in some cases, a family member. VA will continue this practice for markers furnished under the new authority if delivery directly to a private cemetery is not possible or practicable.

VA does not pay the cost to install a Government marker. VA has no jurisdiction over policies established by private cemeteries; therefore, the

applicant must obtain certification on VA Form 40-1330 from a cemetery representative that the type and placement of the marker requested adheres to the policies and guidelines of the selected private cemetery. Lastly, VA will offer its full product line of marble, granite, and bronze markers to eligible applicants requesting benefits under this amendment.

#### **Unfunded Mandates**

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

#### **Paperwork Reduction Act**

This document does not contain new provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501-3521). The Office of Management and Budget has approved the existing information collection under control number 2900-0222.

#### **Administrative Procedure Act Provisions**

Under the Veterans Education and Benefits Expansion Act of 2001 (Pub. L. 107-103) Congress created a 5-year pilot program requiring the VA Secretary to furnish, under specific conditions, an appropriate Government marker to those families who request one for a privately marked grave in a private cemetery. The Veterans Benefits Act of 2002 (Pub. L. 107-330) extended eligibility to veterans whose deaths occurred on or after September 11, 2001. The authority to furnish a marker under this statute expires on December 31, 2006. Congress mandated VA to submit a report not later than February 1, 2006, to the Senate and House Committees on Veterans' Affairs on the use of this authority. The report will provide the number of Government markers, by fiscal year, that were provided; and an assessment of markers delivered to cemeteries and placed on grave sites during this 5-year pilot program. The determination to extend or repeal this program will be based on the data gathered during this period. Under these circumstances, we have concluded that there is good cause for dispersing with prior notice and comment and a delayed effective date based on the conclusion that such procedure is impracticable,

unnecessary, and contrary to public interest.

#### Executive Order 12866

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

#### Regulatory Flexibility Act

The Secretary hereby certifies that this interim final rule 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 individual VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this interim final rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

#### Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance program number for this document is 64.202.

#### List of Subjects in 38 CFR Part 1

Administrative practice and procedure, Cemeteries, Veterans.

Approved: August 4, 2003.

**Anthony J. Principi,**  
*Secretary of Veterans Affairs.*

■ For the reasons set out in the preamble, 38 CFR part 1 is amended as set forth below:

#### PART 1—GENERAL PROVISIONS

■ 1. The authority citation for part 1 continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Add a new § 1.631 to read as follows:

##### § 1.631 Appropriate markers for graves already marked at private expense.

(a) VA will furnish an appropriate Government marker for the grave of a decedent described in paragraph (b) of this section, but only if the individual requesting the marker certifies on VA Form 40–1330 that it will be placed on the grave for which it is requested or, if placement on the grave is impossible or impracticable, as close to the grave as possible within the grounds of the private cemetery where the grave is located.

(b) The decedent referred to in paragraph (a) of this section is one who:

- (1) Died on or after September 11, 2001;
- (2) Is buried in a private cemetery; and
- (3) Was eligible for burial in a national cemetery, but is not an

individual described in 38 U.S.C. 2402(4), (5), or (6).

(c) VA will deliver the marker directly to the cemetery where the grave is located or to a receiving agent for delivery to the cemetery.

(d) VA will not pay the cost of installing a Government marker in a private cemetery.

(e) The applicant must obtain certification on VA Form 40–1330 from a cemetery representative that the type and placement of the marker requested adheres to the policies and guidelines of the selected private cemetery.

(f) VA will furnish its full product line of Government markers for private cemeteries.

(g) The authority to furnish a marker under this section expires on December 31, 2006.

(Authority: 38 U.S.C. 501, 2306)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0222.)

[FR Doc. 03–24214 Filed 9–24–03; 8:45 am]

BILLING CODE 8320–01–P

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 90

[WT Docket No. 01–146; RM–9966; FCC 03–35]

##### Applications and Licensing of Low Power Operations in the Private Land Mobile Radio 450–470 MHz Band; Corrections

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** The Federal Communications Commission published a document in the *Federal Register* on April 21, 2003, (68 FR 19444), a document revising Commission rules inadvertently listed frequencies in § 90.35(b)(3) as 462/467.23152, also it changes the limit of the maximum antenna height from 23 meters (75 feet) in § 90.267(d)(2) and finally it corrects the listing of frequency pairs in 90.267(d)(4). This document revises these sections.

**DATES:** Effective September 25, 2003.

##### FOR FURTHER INFORMATION CONTACT:

Brian Marengo, Electronics Engineer, [bmarengo@fcc.gov](mailto:bmarengo@fcc.gov), or Genevieve Ross, Esquire, [gaugusti@fcc.gov](mailto:gaugusti@fcc.gov), Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0680.

**SUPPLEMENTARY INFORMATION:** This is a summary of the FCC's Erratum, FCC 03–35, released on March 11, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: <http://www.fcc.gov>. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at [bmillin@fcc.gov](mailto:bmillin@fcc.gov).

In the FR Doc. 03–9667 published in the *Federal Register* on April 21, 2003, (68 FR 19444), § 90.35(b)(3) make the following correction.

1. On page 19456 in the table please correct the frequency “462.23152” to read as “462.23125” and

2. On page 19459 in the table please correct the frequency “467.23152” to read as “467.23125”.

3. On page 19462 in § 90.267 in paragraph (d)(2) of column three please correct the maximum antenna height from “23 meters (75 feet)” for Group B channels to “7 meters (20 ft).”

4. On page 19462 in § 90.267 in paragraph (d)(3) of the table in column one please correct the frequency pair “462/467.23152” to read as “462/467.23125”.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 03–23795 Filed 9–24–03; 8:45 am]

BILLING CODE 6712–01–P

#### DEPARTMENT OF TRANSPORTATION

##### National Highway Traffic Safety Administration

##### 49 CFR Part 585

[Docket No. NHTSA–03–15067]

##### Advanced Air Bag Phase-In Reporting Requirements

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This document contains a correction to the final rule published May 5, 2003, that amended the definition of limited line manufacturer for the purposes of the advanced air bag regulations phase-in.