

system or satellite carrier shall include no more than two of the Statements of Account from the previous six accounting periods submitted by that cable system or satellite carrier.

(2) Once a notice of intent to audit a Statement of Account has been received by the Office, a notice of intent to audit that same Statement will not be accepted for publication in the **Federal Register**.

(3) If the final auditor's report concludes that there has been a net aggregate underpayment of five percent or more on the audited Statements of Account of a particular cable system or satellite carrier, the participating copyright owners may audit all of the Statements of Account filed by that particular cable system or satellite carrier during the previous six accounting periods by complying with the procedures set forth in paragraphs (c) and (d) of this section. The expanded audit may be conducted by the same auditor that performed the initial audit, provided that the participating copyright owner(s) provide the statutory licensee with updated information reasonably sufficient to allow the licensee to determine that there has been no material change in the auditor's independence and qualifications. In the alternative, the expanded audit may be conducted by an auditor selected by the licensee pursuant to the procedures set forth in paragraph (e) of this section.

(4) An audit of an MSO shall be limited to a sample of no more than 10 percent of the MSO's Form 3 cable systems and no more than 10 percent of the MSO's Form 2 systems, except that if the auditor concludes that there was a net aggregate underpayment of five percent or more on the Statements of Account at issue in an audit:

- (i) The number of Statements of Account of a particular cable system subject to audit in a calendar year may be expanded in accordance with paragraph (k)(3) of this section; and
- (ii) The sample of cable systems that may be audited in a calendar year may be expanded in the following calendar year to include a sample of 30 percent of the MSO's Form 3 cable systems and 30 percent of the MSO's Form 2 cable systems.

(l) *Retention of records.* For each Statement of Account that a statutory licensee files with the Copyright Office for accounting periods beginning on or after January 1, 2010, the statutory licensee shall maintain all records necessary to confirm the correctness of the calculations and royalty payments reported in each Statement for at least three and one-half years after the last day of the year in which that Statement

or an amendment of that Statement was filed with the Office and, in the event that such Statement or amendment is the subject of an audit conducted pursuant to this section, for three years after the auditor delivers the final report to the participating copyright owner(s) and the statutory licensee.

(m) *Confidentiality.* (1) For purposes of this section, confidential information shall include any non-public financial or business information pertaining to a Statement of Account that has been subjected to an audit under section 111(d)(6) or 119(b)(2) of title 17 of the United States Code, as amended by Public Law 111-175.

(2) Access to confidential information under this section shall be limited to:

- (i) The auditor; and
- (ii) Subject to executing a reasonable confidentiality agreement, outside counsel for the participating copyright owners and any third party consultants retained by outside counsel, and any employees, agents, consultants, or independent contractors of the auditor who are not employees, officers, or agents of a participating copyright owner for any purpose other than the audit, who are engaged in the audit of a Statement of Account or activities directly related hereto, and who require access to the confidential information for the purpose of performing such duties during the ordinary course of their employment;

(3) The auditor and any person identified in paragraph (m)(2)(ii) of this section shall implement procedures to safeguard all confidential information received from any third party in connection with an audit, using a reasonable standard of care, but no less than the same degree of security used to protect confidential financial and business information or similarly sensitive information belonging to the auditor or such person.

Dated: May 2, 2013.

**Maria A. Pallante,**  
*Register of Copyrights.*

[FR Doc. 2013-11020 Filed 5-8-13; 8:45 am]

**BILLING CODE 1410-30-P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 17

#### RIN 2900-AO25

### Duty Periods for Establishing Eligibility for Health Care

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) is proposing to amend its medical regulations concerning eligibility for health care to re-establish the definitions of "active military, naval, or air service," "active duty," and "active duty for training." These definitions were deleted in 1996; however, we believe that all duty periods should be defined in part 17 of the Code of Federal Regulations (CFR) to ensure proper determination of eligibility for VA health care. We would also provide a more complete definition of "inactive duty training."

**DATES:** Comments must be received by VA on or before July 8, 2013.

**ADDRESSES:** Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AO25—Duty Periods for Establishing Eligibility for Health Care." Copies of 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). Please call (202) 461-4902 for an appointment. (This is not a toll-free number.) In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at <http://www.Regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Kristin J. Cunningham, Director Business Policy, Chief Business Office (10NB6), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420; (202) 461-1599. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Under 38 U.S.C. 1710 and 1705, VA provides health care to certain veterans. Section 101(2) of title 38, U.S.C., defines the term "veteran" to mean "a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable." "Active military, naval, or air service" includes "active duty" and certain periods of "active duty for training" and "inactive duty training," which are all defined in 38 U.S.C. 101. See 38 U.S.C. 101(21)–(24). These terms prescribe the type of service an individual needs to have had in order to be eligible for VA health care benefits. We would incorporate the full definitions of these terms found in 38

U.S.C. 101(21) through (24) into 38 CFR 17.31, VA's regulation for defining duty periods applicable to eligibility for medical benefits.

On May 13, 1996, in 61 FR 21965, VA removed and marked as reserved paragraphs (a) through (c) of § 17.31. These paragraphs contained the definitions of "active military, naval, or air service," "active duty," and "active duty for training," which reflected the statutory definitions of those terms in 38 U.S.C. 101. At that time, in an effort to streamline its regulations, VA determined that paragraphs (a) through (c) of § 17.31 were unnecessary because they merely restated the definitions found in 38 U.S.C. 101(21), 101(22), and 101(24) almost verbatim. It is not clear why VA retained paragraph (d), containing a definition for "inactive duty training," which also restated most of 38 U.S.C. 101(23) almost verbatim. Currently, the introductory paragraph to § 17.31 states that the regulation contains "[d]efinitions of duty periods applicable to eligibility for medical benefits." However, it contains only an incomplete definition for inactive duty training. A reader of § 17.31 could conclude that no other duty periods, aside from "inactive duty training," would qualify an individual as eligible for VA medical benefits. This is not an

accurate representation of VA's authority. An individual could be eligible for VA medical benefits based on only certain periods of inactive duty training (i.e., if the individual was disabled from an injury or covered disease during such training), which the current regulation does not make clear. An individual could also be eligible for VA medical benefits based on active duty or certain periods of active duty for training.

We propose to incorporate the 38 U.S.C. 101 definitions of "active military, naval, or air service," "active duty," and "active duty for training" into § 17.31 as paragraphs (a) through (c). We also propose to incorporate 38 U.S.C. 106, which establishes certain other service as active military service. However, these statutory provisions are not exhaustive.

We would also incorporate a listing of individuals and groups the Secretary of Defense, through the Secretary of the Air Force acting as Executive Agent of the Secretary of Defense, has determined to have performed active military service. Under the provisions of Public Law 95-202, sec. 401 (1977), the Department of Defense (DoD) can determine that the service of certain groups or individuals constitutes active duty service for purposes of title 38

benefits. DoD has outlined regulations at 32 CFR part 47 that explain how the determination that a group or individual is considered to have performed active duty service is made. These decisions are published in the **Federal Register**. 32 CFR 47.6(b)(5). Also, under 32 CFR 47.5(b)(9), the Secretary of Veterans Affairs is notified when DoD determines that a group or individual is considered to have performed active duty service.

Proposed paragraph (b) would include service by any individual or group certified by the Secretary of Defense as active duty, which is currently listed in 38 CFR 3.7. The following table includes a list of the relevant groups (in alphabetical order) and the effective date of recognition for each group, as well as a citation to the applicable **Federal Register** notice describing the decision by the Secretary of Air Force. The only exception with respect to the **Federal Register** citations is the recognition of the "Quartermaster Corps Keswick Crew on Corregidor (WWII)," which recognition does not appear to have been published in the **Federal Register**. In that case, we have cited the DoD memorandum recognizing the group. We would also incorporate a statement in paragraph (b)(6) to reflect subsequent acts of recognition by DoD.

Individuals and groups designated by the Secretary of Air Force as having performed active military service	Individual or group recognition date	<b>Federal Register</b> citation or authority recognizing the individual or group
American Merchant Marine in Oceangoing Service during the period of Armed Conflict, December 7, 1941, to August 15, 1945.	Recognized effective January 19, 1988.	53 FR 2775.
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.	Recognized effective September 30, 1999.	64 FR 56773.
Civilian Crewmen of the 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 U.S. Armed Forces within a time frame of December 7, 1941, to August 15, 1945. Qualifying USCGS vessels specified by the Secretary of the Air Force, are the Derickson, Explorer, Gilbert, Hilgard, E. Lester Jones, Lydonia, Patton, Surveyor, Wainwright, Westdahl, Oceanographer, Hydrographer, or Pathfinder.	Recognized effective April 8, 1991	56 FR 23054, 57 FR 24600.
Civilian Employees of Pacific Naval Air Bases who actively participated in Defense of Wake Island during World War II.	Recognized effective January 22, 1981.	46 FR 11857.
Civilian Navy Identification Friend or Foe (IFF) Technicians who served in the Combat Areas of the Pacific during World War II. (December 7, 1941, to August 15, 1945.).	Recognized effective August 2, 1988.	53 FR 32425.
Civilian personnel assigned to the Secret Intelligence Element of the Office of Strategic Services (OSS).	Recognized effective December 27, 1982.	48 FR 1532.
Engineer Field Clerks (World War I) .....	Recognized effective August 31, 1979.	44 FR 55622.
Guam Combat Patrol .....	Recognized effective May 10, 1983.	48 FR 23295.
Honorably discharged members of the American Volunteer Group (Flying Tigers) who served during the period December 7, 1941, to July 18, 1942.	Recognized effective May 3, 1991	56 FR 26072.
Honorably discharged members of the American Volunteer Guard, Eritrea Service Command during the Period June 21, 1942, to March 31, 1943.	Recognized effective June 29, 1992.	57 FR 34766.

Individuals and groups designated by the Secretary of Air Force as having performed active military service	Individual or group recognition date	Federal Register citation or authority recognizing the individual or group
Male Civilian Ferry Pilots .....	Recognized effective July 17, 1981.	46 FR 39197.
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.	Recognized effective August 27, 1999.	64 FR 53364.
Quartermaster Corps Female Clerical Employees serving with the American Expeditionary Forces in World War II.	Recognized effective January 22, 1981.	46 FR 11857.
Quartermaster Corps Keswick Crew on Corregidor (World War II) .....	Recognized effective February 7, 1984.	Memorandum from the Acting Assistant Secretary of the Air Force (Manpower, Reserve Affairs and Installations), Determination of Active Military Service (Feb. 7, 1984) (on file with DoD Civilian/Military Service Review Board).
Reconstruction Aides and Dietitians in World War I .....	Recognized effective July 6, 1981.	46 FR 37306.
Signal Corps Female Telephone Operators Unit of World War I .....	Recognized effective May 15, 1979.	44 FR 32019.
Three scouts/guides, Miguel Tenorio, Penedicto Taisacan, and Cristino Dela Cruz, who assisted the U.S. Marines in the offensive operations against the Japanese on the Northern Mariana Islands from June 19, 1944, through September 2, 1945.	Recognized effective September 30, 1999.	64 FR 56773.
U.S. civilian employees of American Airlines who served overseas as a result of American Airlines' Contract with the Air Transport Command (ATC) during the period December 14, 1941, through August 14, 1945.	Recognized effective October 5, 1990.	55 FR 46706.
U.S. civilian female employees of the U.S. Army Nurse Corps while serving in the Defense of Bataan and Corregidor during the period January 2, 1942, to February 3, 1945.	Recognized effective December 13, 1993.	59 FR 298.
U.S. Civilian Flight Crew and Aviation Ground Support Employees of Braniff Airways, who served overseas in the North Atlantic or under the jurisdiction of the North Atlantic Wing, ATC, as a result of a Contract with the ATC during the period February 26, 1942, through August 14, 1945.	Recognized effective June 2, 1997.	62 FR 36263.
U.S. Civilian Flight Crew and Aviation Ground Support Employees of Consolidated Vultee Aircraft Corporation (Consairway Division), who served overseas as a result of a Contract with the ATC during the period December 14, 1941, through August 14, 1945.	Recognized effective June 29, 1992.	57 FR 34765.
U.S. Flight Crew and Aviation Ground Support Employees of Northeast Airlines Atlantic Division, who served overseas as a result of Northeast Airlines' Contract with the ATC during the period December 7, 1941, through August 14, 1945.	Recognized effective June 2, 1997.	62 FR 36263.
U.S. Civilian Flight Crew and Aviation Ground Support Employees of Northwest Airlines, who served overseas as a result of Northwest Airlines' Contract with the ATC during the period December 14, 1941, through August 14, 1945.	Recognized effective December 13, 1993.	59 FR 297.
U.S. Civilian Flight Crew and Aviation Ground Support Employees of Pan American World Airways and its Subsidiaries and Affiliates, who served overseas as a result of Pan American's Contract with the ATC and Naval Air Transport Service during the period December 14, 1941, through August 14, 1945.	Recognized effective July 16, 1992.	57 FR 34765.
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 ATC during the period December 14, 1941, through August 14, 1945. The "Flight Crew" includes pursers.	Recognized effective May 13, 1992.	57 FR 24479, 68 FR 11068.
U.S. Civilian Flight Crew and Aviation Ground Support Employees of United Air Lines (UAL), who served overseas as a result of UAL's Contract with the ATC during the period December 14, 1941, through August 14, 1945.	Recognized effective May 13, 1992.	57 FR 24478.
U.S. civilian volunteers who actively participated in the Defense of Bataan.	Recognized effective February 7, 1984.	49 FR 7849.
U.S. civilians of the American Field Service (AFS) who served overseas operationally in World War I during the period August 31, 1917, to January 1, 1918.	Recognized effective August 30, 1990.	55 FR 46707.
U.S. civilians of the AFS who served overseas under U.S. Armies and U.S. Army Groups in World War II during the period December 7, 1941, through May 8, 1945.	Recognized effective August 30, 1990.	55 FR 46707.
U.S. Merchant Seamen who served on blockships in support of Operation Mulberry.	Recognized effective October 18, 1985.	50 FR 46332.
Wake Island Defenders from Guam .....	Recognized effective April 7, 1982.	47 FR 17324.

Individuals and groups designated by the Secretary of Air Force as having performed active military service	Individual or group recognition date	Federal Register citation or authority recognizing the individual or group
Women's Army Auxiliary Corps (WAAC) .....	Recognized effective March 18, 1980.	45 FR 23716, 45 FR 26115.

We also propose to list in paragraph (b) service by other individuals and groups specifically identified by Congress, or determined by court or VA decisions interpreting applicable legislative provisions, as constituting active military service. These other individuals and groups are currently listed in various paragraphs of current § 3.7. See 38 CFR 3.7(a)–(l), (n)–(q), (s)–(w). We propose to include in § 17.31(b) service by these individuals and groups from § 3.7, which would provide a more complete definition of active duty for purposes of determining eligibility for VA health care. This improves the accessibility of the information and clarifies who can receive VA health care.

For purposes of determining eligibility for medical services, proposed paragraph (b)(50) would recognize as active duty service by a Commonwealth Army veteran or new Philippine Scout, as defined in 38 U.S.C. 1735, who resides in the United States and is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence. Although 38 U.S.C. 107 provides that service by Commonwealth Army veterans and new Philippine Scouts is deemed to have been active military, naval, or air service only for purposes of certain specified benefits, 38 U.S.C. 1734 authorizes VA to furnish hospital and nursing home care and medical services to Commonwealth Army veterans and new Philippine Scouts. Proposed paragraph (b)(50) would also recognize as active duty service by Regular Philippine Scouts and service in the Insular Force of the Navy, Samoan Native Guard, or Samoan Native Band of the Navy, as referenced in 38 CFR 3.40(a). See 38 CFR 3.7(p).

Proposed paragraph (b)(57) would recognize as active duty certain attendance at the preparatory schools of the United States Air Force Academy, the United States Military Academy, or the United States Naval Academy, as covered under 38 CFR 3.6(b)(5). Proposed paragraph (b)(60) would also recognize as active duty the period of time immediately following the date an individual is discharged or released from a period of active duty, consistent with 38 U.S.C. 106(c).

In addition to the 38 U.S.C. 101(22) definition of the term “active duty for

training,” proposed paragraph (c) would include certain attendance at the preparatory schools of the United States Air Force Academy, the United States Military Academy, or the United States Naval Academy, consistent with 38 CFR 3.6(c)(5). We would also include certain authorized travel to or from the place of active duty for training and list the factors for consideration in determining whether an individual satisfies specific conditions, consistent with 38 U.S.C. 106(d).

We also propose to correct an oversight. The National Defense Authorization Act, Fiscal Year 1989 (the “1989 Act”), Public Law 100–456, sec. 633 (1988), amended the definition of “inactive duty training” in 38 U.S.C. 101(23) to include members of, or applicants for membership in, the Senior Reserve Officers’ Training Corps (SROTC). Paragraph (d) of § 17.31 defines inactive duty for training. However, § 17.31(d) was not amended to reflect the changes made by the 1989 Act. Although the current definition of “inactive duty training” does not include training by members of, or applicants for membership in the SROTC, in accordance with the updated statute, VA has been considering training by these groups of individuals “inactive duty training.” We, therefore, propose to amend § 17.31(d) to reflect the complete statutory definition. We propose to redesignate current paragraph (d)(4) as (d)(5) and add a new paragraph (d)(4) to state that “[t]raining (other than active duty for training) by a member of, or applicant for membership (as defined in 5 U.S.C. 8140(g)) in, the Senior Reserve Officers’ Training Corps prescribed under chapter 103 of title 10 U.S.C.” is considered “inactive duty training.”

Consistent with 38 U.S.C. 106(d), we propose to add paragraph (d)(6) to state that travel to or from the place of inactive duty training shall also be considered inactive duty training only if an individual, when authorized or required by competent authority, assumes an obligation to perform inactive duty training and is disabled from an injury, acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident incurred while proceeding directly to or returning directly from such inactive duty training. We would also list the factors

for consideration in determining whether an individual satisfies these conditions. See 38 U.S.C. 106(d)(2).

We also propose to add an authority citation for § 17.31, which would indicate that the statutory authorities for § 17.31 are 38 U.S.C. 101, 106, 501, 1734 and 1735. We would add sections 1734 and 1735 because section 1734 is the Veterans Health Administration’s authority for providing health care to Commonwealth Army veterans and Philippine Scouts, while 1735 defines these two groups of veterans.

### Effect of Rulemaking

The Code of Federal Regulations, as proposed to be revised by this rulemaking, would represent the exclusive legal authority on this subject. No contrary rules or procedures would be authorized. All VA guidance would be read to conform with this proposed rulemaking if possible or, if not possible, such guidance would be superseded by this rulemaking.

### Paperwork Reduction Act

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

### Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would 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. This proposed rule would not cause a significant economic impact on health care providers, suppliers, or entities since only a small portion of the business of such entities concerns VA beneficiaries. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

### Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the 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

effects, and other advantages, distributive impacts, and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a "significant regulatory action," which requires review by the Office of Management and Budget (OMB), as "any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order."

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be 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 given year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles for this rulemaking are as follows: 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol

and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

#### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Interim Chief of Staff, Department of Veterans Affairs, approved this document on May 3, 2013 for publication.

#### List of Subjects in 38 CFR Part 17

Administrative practice and procedure; Alcohol abuse; Alcoholism; Claims; Day care; Dental health; Drug abuse; Government contracts; Grant programs-health; Grant programs-veterans; Health care; Health facilities; Health professions; Health records; Homeless; Mental health programs; Nursing homes; Philippines, Reporting and recordkeeping requirements; Veterans.

Dated: May 6, 2013.

**Robert C. McFetridge,**

*Director of Regulation Policy and Management, Office of General Counsel, Department of Veterans Affairs.*

For the reasons set forth in the preamble, we propose to amend 38 CFR part 17 as follows:

#### PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

■ 2. Amend § 17.31 by:

- a. Adding paragraphs (a) through (c).
- b. Revising paragraph (d) introductory text.
- c. Redesignating current paragraph (d)(4) as paragraph (d)(5).
- d. Adding new paragraphs (d)(4) and (d)(6).
- e. Adding an authority citation at the end of the section.

The revision and additions read as follow:

#### § 17.31 Duty periods defined.

\* \* \* \* \*

(a) *Active military, naval, or air service* includes:

- (1) Active duty.
- (2) Any period of active duty for training during which the individual was disabled from a disease or injury incurred or aggravated in line of duty.
- (3) Any period of inactive duty training during which the individual

was disabled from an injury incurred or aggravated in line of duty.

(4) Any period of inactive duty training during which the individual was disabled from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident which occurred during such period of inactive duty training.

(b) *Active duty* means:

(1) Full-time duty in the Armed Forces, other than active duty for training.

(2) Full-time duty, other than for training purposes, as a commissioned officer of the Regular or Reserve Corps of the Public Health Service during the following dates:

(i) On or after July 29, 1945;

(ii) Before July 29, 1945, under circumstances affording entitlement to full military benefits; or

(3) Full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organizations, the Coast and Geodetic Survey or the Environmental Science Services Administration, during the following dates:

(i) On or after July 29, 1945;

(ii) Before July 29, 1945, under the following circumstances:

(A) While on transfer to one of the Armed Forces;

(B) While, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard; or

(C) In the Philippine Islands on December 7, 1941, and continuously in such islands thereafter; or

(4) Service as a cadet at the U.S. Military, Air Force, or Coast Guard Academy, or as a midshipman at the U.S. Naval Academy.

(5) Service in Women's Army Auxiliary Corps (WAAC). Recognized effective March 18, 1980.

(6) Service of any person in a group the members of which rendered service to the Armed Forces of the United States in a capacity considered civilian employment or contractual service at the time such service was rendered, if the Secretary of Defense:

(i) Determines that the service of such group constituted active military service; and

(ii) Issues to each member of such group a discharge from such service under honorable conditions where the nature and duration of the service of such member so warrants.

(7) Service in American Merchant Marine in Oceangoing Service any time during the period December 7, 1941, to August 15, 1945. Recognized effective January 19, 1988.

(8) Service by 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 U.S. Marines on active, combat-patrol activity any time during the period August 19, 1945, to September 2, 1945. Recognized effective September 30, 1999.

(9) Service by Civilian Crewmen of the U.S. Coast and Geodetic Survey (USCGS) vessels, who performed their service in areas of immediate military hazard while conducting cooperative operations with and for the U.S. Armed Forces any time during the period December 7, 1941, to August 15, 1945. Qualifying USCGS vessels specified by the Secretary of the Air Force are the Derickson, Explorer, Gilbert, Hilgard, E. Lester Jones, Lydonia, Patton, Surveyor, Wainwright, Westdahl, Oceanographer, Hydrographer, or Pathfinder. Recognized effective April 8, 1991.

(10) Service by Civilian Employees of Pacific Naval Air Bases who actively participated in Defense of Wake Island during World War II. Recognized effective January 22, 1981.

(11) Service by Civilian Navy Identification Friend or Foe (IFF) Technicians who served in the Combat Areas of the Pacific any time during the period December 7, 1941, to August 15, 1945. Recognized effective August 2, 1988.

(12) Service by Civilian personnel assigned to the Secret Intelligence Element of the Office of Strategic Services (OSS). Recognized effective December 27, 1982.

(13) Service by Engineer Field Clerks (World War I). Recognized effective August 31, 1979.

(14) Service by Guam Combat Patrol. Recognized effective May 10, 1983.

(15) Service by Honorably discharged members of the American Volunteer Group (Flying Tigers) who served any time during the period December 7, 1941, to July 18, 1942. Recognized effective May 3, 1991.

(16) Service by Honorably discharged members of the American Volunteer Guard, Eritrea Service Command who served any time during the period June 21, 1942, to March 31, 1943. Recognized effective June 29, 1992.

(17) Service by Male Civilian Ferry Pilots. Recognized effective July 17, 1981.

(18) Service with 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 any time during the period December 7, 1941, to August 15, 1945. Recognized effective August 27, 1999.

(19) Service by Quartermaster Corps Female Clerical Employees serving with the American Expeditionary Forces in World War II. Recognized effective January 22, 1981.

(20) Service by Quartermaster Corps Keswick Crew on Corregidor (World War II). Recognized effective February 7, 1984.

(21) Service by Reconstruction Aides and Dietitians in World War I. Recognized effective July 6, 1981.

(22) Service by Signal Corps Female Telephone Operators Unit of World War I. Recognized effective May 15, 1979.

(23) Service by three scouts/guides, Miguel Tenorio, Penedicto Taisacan, and Cristino Dela Cruz, who assisted the U.S. Marines in the offensive operations against the Japanese on the Northern Mariana Islands from June 19, 1944, through September 2, 1945. Recognized effective September 30, 1999.

(24) Service by U.S. civilian employees of American Airlines who served overseas as a result of American Airlines' Contract with the Air Transport Command any time during the period December 14, 1941, to August 14, 1945. Recognized effective October 5, 1990.

(25) Service by U.S. civilian female employees of the U.S. Army Nurse Corps while serving in the Defense of Bataan and Corregidor any time during the period January 2, 1942, to February 3, 1945. Recognized effective December 13, 1993.

(26) Service by U.S. Civilian Flight Crew and Aviation Ground Support Employees of Braniff Airways, who served overseas in the North Atlantic or under the jurisdiction of the North Atlantic Wing, Air Transport Command (ATC), as a result of a Contract with the ATC any time during the period February 26, 1942, to August 14, 1945. Recognized effective June 2, 1997.

(27) Service by U.S. Civilian Flight Crew and Aviation Ground Support Employees of Consolidated Vultee Aircraft Corporation (Consairway Division), who served overseas as a result of a Contract with the Air Transport Command any time during the period December 14, 1941, to August 14, 1945. Recognized effective June 29, 1992.

(28) Service by U.S. Flight Crew and Aviation Ground Support Employees of Northeast Airlines Atlantic Division, who served overseas as a result of Northeast Airlines' Contract with the Air Transport Command any time during the period December 7, 1941, to

August 14, 1945. Recognized effective June 2, 1997.

(29) Service by U.S. Civilian Flight Crew and Aviation Ground Support Employees of Northwest Airlines, who served overseas as a result of Northwest Airlines' Contract with the Air Transport Command any time during the period December 14, 1941, to August 14, 1945. Recognized effective December 13, 1993.

(30) Service by U.S. Civilian Flight Crew and Aviation Ground Support Employees of Pan American World Airways and its Subsidiaries and Affiliates, who served overseas as a result of Pan American's Contract with the Air Transport Command and Naval Air Transport Service any time during the period December 14, 1941, to August 14, 1945. Recognized effective July 16, 1992.

(31) Service by 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 any time during the period December 14, 1941, to August 14, 1945. The "Flight Crew" includes pursers. Recognized effective May 13, 1992.

(32) Service by U.S. Civilian Flight Crew and Aviation Ground Support Employees of United Air Lines (UAL), who served overseas as a result of UAL's Contract with the Air Transport Command any time during the period December 14, 1941, to August 14, 1945. Recognized effective May 13, 1992.

(33) Service by U.S. civilian volunteers who actively participated in the Defense of Bataan. Recognized effective February 7, 1984.

(34) Service by U.S. civilians of the American Field Service (AFS) who served overseas operationally in World War I any time during the period August 31, 1917, to January 1, 1918. Recognized effective August 30, 1990.

(35) Service by U.S. civilians of the American Field Service (AFS) who served overseas under U.S. Armies and U.S. Army Groups in World War II any time during the period December 7, 1941, to May 8, 1945. Recognized effective August 30, 1990.

(36) Service by U.S. Merchant Seamen who served on blockships in support of Operation Mulberry. Recognized effective October 18, 1985.

(37) Service by Wake Island Defenders from Guam. Recognized effective April 7, 1982.

(38) Service by Women's Air Forces Service Pilots (WASP). Recognized effective November 23, 1977.

(39) Service by persons who were injured while providing aerial

transportation of mail and serving under conditions set forth in Public Law 73–140.

(40) Service in the Alaska Territorial Guard during World War II, for any person who the Secretary of Defense determines was honorably discharged.

(41) Service by Army field clerks.

(42) Service by Army Nurse Corps, Navy Nurse Corps, and female dietetic and physical therapy personnel as follows:

(i) Female Army and Navy nurses on active service under order of the service department; or

(ii) Female dietetic and physical therapy personnel, excluding students and apprentices, appointed with relative rank after December 21, 1942, or commissioned after June 21, 1944.

(43) Service by students who were enlisted men in Aviation camps during World War I.

(44) Active service in the Coast Guard after January 28, 1915, while under the jurisdiction of the Treasury Department, the Navy Department, the Department of Transportation, or the Department of Homeland Security. This does not include temporary members of the Coast Guard Reserves.

(45) Service by contract surgeons if the disability was the result of injury or disease contracted in the line of duty during a period of war while actually performing the duties of assistant surgeon or acting assistant surgeon with any military force in the field, or in transit, or in a hospital.

(46) Service by field clerks of the Quartermaster Corps.

(47) Service by lighthouse service personnel who were transferred to the service and jurisdiction of the War or Navy Departments by Executive Order under the Act of August 29, 1916. Effective July 1, 1939, service was consolidated with the Coast Guard.

(48) Service by male nurses who were enlisted in a Medical Corps.

(49) Service by persons having a pensionable or compensable status before January 1, 1959.

(50) Service by a Commonwealth Army veteran or new Philippine Scout, as defined in 38 U.S.C. 1735, who resides in the United States and is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence; service by Regular Philippine Scouts and service in the Insular Force of the Navy, Samoan Native Guard, or Samoan Native Band of the Navy.

(51) Service with the Revenue Cutter Service while serving under direction of the Secretary of the Navy in cooperation with the Navy. Effective January 28,

1915, the Revenue Cutter Service was merged into the Coast Guard.

(52) Service during World War I in the Russian Railway Service Corps as certified by the Secretary of the Army.

(53) Service by members of training camps authorized by section 54 of the National Defense Act (Pub. L. 64–85, 39 Stat. 166), except for members of Student Army Training Corps Camps at the Presidio of San Francisco; Plattsburg, New York; Fort Sheridan, Illinois; Howard University, Washington, DC; Camp Perry, Ohio; and Camp Hancock, Georgia, from July 18, 1918, to September 16, 1918.

(54) Service in the Women's Army Corps (WAC) after June 30, 1943.

(55) Service in the Women's Reserve of the Navy, Marine Corps, and Coast Guard.

(56) Effective July 28, 1959, service by a veteran who was discharged for alienage during a period of hostilities unless evidence affirmatively shows the veteran was discharged at his or her own request. A veteran who was discharged for alienage after a period of hostilities and whose service was honest and faithful is not barred from benefits if he or she is otherwise entitled. A discharge changed prior to January 7, 1957, to honorable by a board established under 10 U.S.C. 1552 and 1553 will be considered as evidence that the discharge was not at the alien's request.

(57) Attendance at the preparatory schools of the United States Air Force Academy, the United States Military Academy, or the United States Naval Academy for enlisted active duty members who are reassigned to a preparatory school without a release from active duty, and for other individuals who have a commitment to active duty in the Armed Forces that would be binding upon disenrollment from the preparatory school.

(58) For purposes of providing medical care under chapter 17 for a service-connected disability, service by any person who has suffered an injury or contracted a disease in line of duty while en route to or from, or at, a place for final acceptance or entry upon active duty and:

(i) Who has applied for enlistment or enrollment in the active military, naval, or air service and has been provisionally accepted and directed or ordered to report to a place for final acceptance into such service;

(ii) Who has been selected or drafted for service in the Armed Forces and has reported pursuant to the call of the person's local draft board and before rejection; or

(iii) Who has been called into the Federal service as a member of the National Guard, but has not been enrolled for the Federal service.

**Note to paragraph (b)(58):** The injury or disease must be due to some factor relating to compliance with proper orders. Draftees and selectees are included when reporting for preinduction examination or for final induction on active duty. Such persons are not included for injury or disease suffered during the period of inactive duty, or period of waiting, after a final physical examination and prior to beginning the trip to report for induction. Members of the National Guard are included when reporting to a designated rendezvous.

(59) Authorized travel to or from such duty or service, as described in this section.

(60) The period of time immediately following the date an individual is discharged or released from a period of active duty, as determined by the Secretary concerned to have been required for that individual to proceed to that individual's home by the most direct route, and in any event until midnight of the date of such discharge or release.

(c) *Active duty for training* means:

(1) Full-time duty in the Armed Forces performed by Reserves for training purposes.

(2) Full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health service during the period covered in paragraph (b)(2) of this section.

(3) In the case of members of the Army National Guard or Air National Guard of any State, full-time duty under sections 316, 502, 503, 504, or 505 of title 32 U.S.C., or the prior corresponding provisions of law.

(4) Duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of training or a practice cruise under chapter 103 of title 10 U.S.C. for a period of not less than four weeks and which must be completed by the member before the member is commissioned.

(5) Attendance at the preparatory schools of the United States Air Force Academy, the United States Military Academy, or the United States Naval Academy by an individual who enters the preparatory school directly from the Reserves, National Guard or civilian life, unless the individual has a commitment to service on active duty which would be binding upon disenrollment from the preparatory school.

(6) Authorized travel to or from such duty as described in paragraph (c) of this section if an individual, when



authorized or required by competent authority, assumes an obligation to perform active duty for training and is disabled from an injury, acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident incurred while proceeding directly to or returning directly from such active duty for training. Authorized travel should take into account:

- (i) The hour on which such individual began so to proceed or to return;
- (ii) The hour on which such individual was scheduled to arrive for, or on which such individual ceased to perform, such duty;
- (iii) The method of travel employed;
- (iv) The itinerary;
- (v) The manner in which the travel was performed; and
- (vi) The immediate cause of disability.

(Note: Active duty for training does not include duty performed as a temporary member of the Coast Guard Reserve.)

(d) *Inactive duty training* means:

\* \* \* \* \*

(4) Training (other than active duty for training) by a member of, or applicant for membership (as defined in 5 U.S.C. 8140(g)) in, the Senior Reserve Officers' Training Corps prescribed under chapter 103 of title 10 U.S.C.

\* \* \* \* \*

(6) Travel to or from such duty as described in this paragraph (d) if an individual, when authorized or required by competent authority, assumes an obligation to perform inactive duty training and is disabled from an injury, acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident incurred while proceeding directly to or returning directly from such inactive duty training. Authorized travel should take into account:

- (i) The hour on which such individual began so to proceed or to return;
- (ii) The hour on which such individual was scheduled to arrive for, or on which such individual ceased to perform, such duty;
- (iii) The method of travel employed;
- (iv) The itinerary;
- (v) The manner in which the travel was performed; and
- (vi) The immediate cause of disability.

(Authority: 38 U.S.C. 101, 106, 501, 1734 and 1735.)

[FR Doc. 2013-11051 Filed 5-8-13; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2007-0206; FRL-9809-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Approval of Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard for the Parish of Pointe Coupee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the Louisiana State Implementation Plan (SIP) concerning a maintenance plan addressing the 1997 8-hour ozone standard for the parish of Pointe Coupee. On February 28, 2007, the State of Louisiana submitted a SIP revision containing a maintenance plan for the 1997 ozone standard for Pointe Coupee Parish. This plan ensures the continued attainment of the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) through the year 2014. On March 12, 2008, EPA issued a revised ozone standard. Today's action, however, is being taken to address requirements under the 1997 ozone standard. Requirements for this area under the 2008 standard will be addressed in future actions. This maintenance plan meets statutory and regulatory requirements, and is consistent with EPA's guidance.

**DATES:** Written comments must be received on or before June 10, 2013.

**ADDRESSES:** Comments may be mailed to Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Ms. Ellen Belk or Ms. Sandra Rennie, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-2164 or (214) 665-7367; fax number 214-665-7263; email address [belk.ellen@epa.gov](mailto:belk.ellen@epa.gov) or [rennie.sandra@epa.gov](mailto:rennie.sandra@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving the State's SIP submittal without prior proposal because the Agency views this as a

noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: April 24, 2013.

Ron Curry,

Regional Administrator, Region 6.

[FR Doc. 2013-10834 Filed 5-8-13; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR PART 52

[EPA-R03-OAR-2013-0132; FRL-9809-6]

#### Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland and Virginia; Attainment Demonstration for the 1997 8-Hour Ozone National Ambient Air Quality Standard for the Washington, DC-MD-VA Moderate Nonattainment Area; Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of the comment period.

**SUMMARY:** EPA is reopening the comment period for a notice published on March 20, 2013. In the March 20, 2013 notice of proposed rulemaking, EPA proposed to approve the attainment demonstration portion of the attainment plan for the Washington DC-MD-VA (Washington area) ozone nonattainment area submitted by the District of Columbia, the State of Maryland and the Commonwealth of Virginia as revisions to each of their State Implementation Plans (SIPs). At the request of the Maryland Department of the Environment (MDE), EPA is reopening the comment period. Comments