

and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This is based upon the fact that commercial vessels are unaffected by the proposal and that the regulations will not prevent recreational boaters from transiting the bridge. Rather it will only require them to adjust their time of arrival for openings on the hour and half hour.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their fields and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because of the reasons discussed in the Regulatory Evaluation above, the Coast Guard certifies under 5 U.S.C. 605(b) that this action, if adopted, will not have a significant economic impact on a substantial number of small entities.

### Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612 and it has determined that this proposed regulation does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

### Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under section 2.B.2. of Commandant Instruction M16475.1B, (as revised by 59 FR 38654, July 29, 1994) this proposal is categorically excluded from further environmental documentation. A Categorical Exclusion Determination is available in the docket for inspection and copying where indicated under ADDRESSES.

### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.205 is revised to read as follows:

#### § 117.205 Connecticut River.

(a) The owners of the AMTRAK Old Saybrook-Old Lyme Bridge, mile 3.4, the Route 82 Bridge, mile 16.8 and the Conrail Middletown Bridge, mile 32.0 shall provide, and keep in good legible condition, clearance gauges with figures not less than twelve (12) inches high designed, installed and maintained according to the provisions of section 118.160 of this chapter.

(b) The draws of the AMTRAK Old Saybrook-Old Lyme Bridge, mile 3.4, and the CONRAIL Middletown-Portland Bridge, mile 32.0 shall be opened as soon as practicable for all noncommercial vessels that cannot pass under the closed bridges, but in no case shall the delay be more than 20 minutes from the time the opening was requested.

(c) The draw of the Route 82 Bridge, mile 16.8 at East Haddam, shall open on signal except that, from 15 May to 31 October between 9 a.m. and 9 p.m., the draw need open for recreational vessels on the hour and half-hour only. The draw shall open on signal for commercial vessels at all times.

Dated: April 19, 1995.

**J.L. Linnon,**

*Rear Admiral, U.S. Coast Guard Commander,  
First Coast Guard District.*

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### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 3

RIN 2900–AH10

#### Determinations of Incompetency and Competency

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

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its adjudication regulations concerning determinations of mental incompetency

to make clear that only rating boards are authorized to make determinations of incompetency.

**DATES:** Comments must be received on or before July 3, 1995.

**ADDRESSES:** Mail written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, or hand-deliver written comments to: Office of Regulations Management, Room 1176, 801 Eye Street, NW., Washington, DC 20001. Comments should indicate that they are in response to "RIN 2900–AH10." All written comments received will be available for public inspection in the Office of Regulations Management, Room 1176, 801 Eye Street, NW., Washington, DC 20001, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Paul Trowbridge, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7210.

#### SUPPLEMENTARY INFORMATION:

Regulations at 38 CFR 3.353 govern VA determinations of competency and incompetency. 38 CFR 3.353(a) defines a mentally incompetent person as one who lacks the mental capacity to manage his or her own affairs, including disbursement of funds without limitation. 38 CFR 3.353(b) was intended to authorize rating boards to make determinations of competency and incompetency for VA purposes without involvement of a Veterans Services Officer (VSO).

In a recent decision (*Coleman v. Brown*, No. 90–966) the United States Court of Veterans Appeals interpreted § 3.353(b) as requiring VSO participation prior to determination of the issue of incompetency. Although the VSO was meant to play an integral role in developing evidence relating to the veteran's ability to handle his or her affairs, the intent of the regulation was to give rating boards sole responsibility for incompetency determinations without the VSO participating in the decision. See 38 CFR 3.104(a). Although it was intended that evidence produced by the VSO could lead to later reconsideration of the incompetency determination, it was not intended that the VSO's concurrence be a condition precedent to rating a beneficiary incompetent. The VSO's investigation was meant merely to provide an additional safeguard which could lead to later review.

The proposed amendment provides that the rating board has sole authority to determine the competency of beneficiaries, but that if the VSO develops new information bearing on the issue of the beneficiary's competency, the rating board will consider that evidence together with all other evidence of record to determine whether the prior determination of incompetency should remain in effect. Paragraph (b)(2) provides that the Adjudication Officer will authorize disbursement to an incompetent beneficiary as directed by the VSO (e.g., supervised direct payment, payment to a fiduciary, or payment to the beneficiary's spouse). Additional nonsubstantive changes would be made in the wording and format of § 3.353(b) for the sake of clarity.

The Secretary hereby certifies that these regulatory amendments would 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. The amendments would not directly affect any small entities. Only VA beneficiaries would be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of section 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 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: April 11, 1995.

**Jesse Brown,**

*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, 38 CFR Part 3 is amended to read as follows:

## PART 3—ADJUDICATION

### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

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

2. Section 3.353 is amended by revising paragraph (b) to read as follows:

#### § 3.353 Determinations of incompetency and competency.

\* \* \* \* \*

(b) *Authority.* (1) Rating agencies have sole authority to make official

determinations of competency and incompetency for the purpose of existing laws, Department of Veterans Affairs regulations and Department of Veterans Affairs instructions. Such determinations are final and binding on field stations for purposes of: insurance (38 U.S.C. 1922), the discontinuance and payment of amounts withheld because of an estate in excess of \$1,500 (§ 3.557(b)), and, subject to § 13.56 of this chapter, disbursement of benefits.

(2) Where the beneficiary is rated incompetent, the Adjudication Officer will inform the Veterans Services Officer of jurisdiction of that fact. The Veterans Services Officer will develop information as to the beneficiary's social, economic and industrial adjustment and appoint (or recommend appointment of) a fiduciary as provided in § 13.55 of this chapter, select a method of disbursing payment as provided in § 13.56 of this chapter, or in the case of a married beneficiary, appoint the beneficiary's spouse to receive payments as provided in § 13.57 of this chapter. The Adjudication Officer will authorize disbursement of the benefit in the manner selected by the Veterans Services Officer.

(3) If in the course of fulfilling the responsibilities assigned in paragraph (b)(2) the Veterans Services Officer develops evidence indicating that the beneficiary may be capable of administering the funds payable without limitation, he or she will refer that evidence to the rating agency with a statement as to his or her findings. The rating agency will consider this evidence, together with all other evidence of record, to determine whether its prior determination of incompetency should remain in effect. Reexamination may be requested as provided in § 3.327(a) if necessary to properly evaluate the beneficiary's mental capacity to contract or manage his or her own affairs.

\* \* \* \* \*

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## POSTAL RATE COMMISSION

### 39 CFR Part 3001

[Docket No. RM95-4]

#### Rules of Practice and Procedure

**AGENCY:** Postal Rate Commission.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Commission is soliciting comments on a Postal Service petition,

including proposed rules for initiation of a rulemaking on procedural changes intended to foster expedition, flexibility and innovation in seven aspects of ratemaking and classification. Proposed rules accompanied the petition. The changes are based in part on recommendations in a joint Postal Service/Postal Rate Commission task force report on improvements in the ratemaking process. The proposed rules generally provide for a lesser amount of initial supporting documentation in Postal Service requests for certain rate and classification changes and a specific, limited period for public comments and Commission review of those requests.

**DATES:** Comments must be submitted on or before July 5, 1995.

**ADDRESSES:** Comments and correspondence should be sent to Margaret Crenshaw, Secretary of the Commission, 1333 H Street NW, Suite 300, Washington, DC 20068-0001 (telephone: 202/789-6840).

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, Legal Advisor, Postal Rate Commission, 1333 H Street NW, Suite 300, Washington, DC 20268-0001 (telephone: 202/789-6820).

**SUPPLEMENTARY INFORMATION:** On April 13, 1995, the Postal Service filed with the Commission a petition for initiation of a rulemaking involving changes in, or additions to, procedural mechanisms for handling certain rate and classification matters. In support thereof, the petition asserts a keen interest on the part of postal management and the Governors in improving approaches to general rate changes. The petition also acknowledges the influence of certain recommendations of the Joint Task Force on Postal Ratemaking (June 1, 1992). The petition, the Joint Task Force's report, and other reports referred to in the Service's petition are on file in the Commission's Docket Room. A summary of the proposed changes, a number of additional related topics for consideration. The text of the rule changes proposed by the Postal Service may be obtained from the Secretary of the Commission upon request.

#### “Limited Scope” Rate Cases

Citing the Joint Task Force's acknowledgement that certain circumstances might call for limited adjustments to rates outside the context of an omnibus rate proceeding, the Postal Service proposes rules that would allow expedited, limited rate changes between rate cases. Petition at 7 (internal citation omitted). The Service says the rules are intended to permit extensive reliance on the most recent