

the conclusion that the garments were sleepwear, but the classification of the garments at the subheading level in the provision for pajamas. Any other Customs ruling on virtually identical merchandise in which the goods were classified in the provision for pajamas are also subject to this notice.

In order to be classified in the provision for nightdresses and pajamas, a garment must be one of the named articles. In Headquarters Ruling Letter 088635 of May 24, 1991, the meaning of the term "pajamas" was examined and it was determined that the common meaning of the term required top and bottom garments and that "pajama bottoms" or sleep bottoms without pajama tops are not classifiable as pajamas.

It follows that the women's sleepwear bottoms which were the subject of the previously cited rulings cannot be classified in the provision for nightdresses and pajamas. Although not classifiable as pajamas, these garments may be classified as "other similar articles" in the "other" provision of heading 6208, HTSUS.

The rationale for classification of the garments at issue in heading 6208, HTSUS, as similar to nightdresses and pajamas lies in the rule of statutory construction known as *ejusdem generis*. In *Van Dale Industries versus United States*, Slip Op. 94-54, (April 1, 1994), in discussing *ejusdem generis*, the Court of International Trade stated:

One rule of statutory construction is *ejusdem generis*, which means "of the same kind, class, or nature." Black's Law Dictionary 464 (5th ed. 1979). This rule applies "whenever a doubt arises as to whether a given article not specifically named in the statute is to be placed in a class of which some of the individual subjects are named." [*United States versus Damrak Trading Co., Inc.*, 43 CCPA 77, 79, C.A.D. 611 (1956).]

Under *ejusdem generis*, where particular words of description are followed by general terms, the latter will be regarded as referring to things of a like class with those particularly described. *Id.* In other words, *ejusdem generis* requires that merchandise possess the particular characteristics or purposes that unite the specified exemplars in order to be classified under the general terms. See, *Nissho-Iwasi Am. Corp. versus United States*, 10 CIT 154, 157, 641 F. Supp. 808, 810 (1986) (citations omitted).

Heading 6208, HTSUS, specifically provides for women's and girls' singlets and other undershirts, slips, petticoats, briefs, panties, nightdresses, pajamas, negligees, bathrobes, dressing gowns and similar articles. To apply *ejusdem*

*generis*, Customs must ascertain the shared characteristics or purposes of the named garments in heading 6208, HTSUS.

All of the articles named in heading 6208, HTSUS, may be characterized as "intimate apparel". They are garments which are recognized as either underwear (the singlets and other undershirts, slips, petticoats, briefs and panties), sleepwear (the nightdresses, pajamas and negligees), or garments normally worn indoors in the presence of family or close friends (the negligees, bathrobes and dressing gowns). The explanatory note for heading 6208 describes the scope of the heading as including women's or girls' underclothing and, after naming the last five exemplars, "garments usually worn indoors". While the explanatory notes contained in the Harmonized Commodity Description and Coding System Explanatory Notes are not legally binding, they do represent the international interpretation of the Harmonized System and provide guidance in determining the scope of the various headings.

As Customs believes the garments in the previously named rulings were properly classified in heading 6208, HTSUS, based on the examination of the garments by Customs which determined that the garments were sleepwear, it is only the subheadings in which the garments were classified that is viewed as an error. Clearly, these garments were of a type which may be characterized as "intimate apparel", *i.e.*, garments which are either worn under other apparel (undergarments) or, garments which are not worn outside the home and when worn in the home would be worn only in the presence of family or intimate friends. Therefore, Customs intends to modify these decisions to reflect the proper classification of the garments in subheading 6208.91.3010, HTSUSA, if of cotton or in subheading 6208.92.0030, HTSUSA, if of man-made fibers. These subheadings provide for, *inter alia*, women's other garments similar to nightdresses, pajamas, negligees, bathrobes, and dressing gowns.

Claims for detrimental reliance under § 177.9, Customs Regulations (19 CFR 177.9), will not be entertained for actions occurring on or after the date of publication of this notice.

#### Authority

This notice is published pursuant to 5 U.S.C. 552 (a)(1)(D). Publication of this notice in the **Federal Register** pursuant to the foregoing provision provides a higher degree of notice than that required under section 625 of the

Tariff Act of 1930 (19 U.S.C. 1625), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057, (hereinafter section 625)). Accordingly, it is Customs position that publication pursuant to section 625 is unnecessary. Customs is using **Federal Register** publication (1) because all rulings to which this notice relates may not have been identified, (2) in order to ensure a uniform and consistent position with respect to classification of this merchandise at an early date, (3) to assist Customs in its responsibility to administer informed compliance with respect to the trade community, and (4) as an aid to the importing community in exercising reasonable care with respect to importations of merchandise subject to this notice.

#### Comments

Before modifying these inconsistent rulings, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 and 4:30 p.m. at the Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., Suite 4000, Washington, DC.

Approved: August 14, 1995

**George J. Weise,**

*Commissioner of Customs.*

**Dennis M. O'Connell,**

*Acting Deputy Assistant Secretary of the Treasury.*

[FR Doc. 95-20530 Filed 8-17-95; 8:45 am]

BILLING CODE 4820-02-P

## DEPARTMENT OF VETERANS AFFAIRS

### Information Collections Under OMB Review

**AGENCY:** Veterans Health Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

OMB Number: 2900-0208.

*Title and Form Number:* Architect-Engineer Fee Proposal, VA Form 08-6298.

*Type of Information Collection:* Extension of a currently approved collection.

*Needs and Uses:* The form is used by architect-engineering firms to submit a fee proposal on the scope and complexity of an individual project. The information is used in the negotiation of a fair and reasonable contract for services.

*Affected Public:* Business or other for-profit.

*Estimated Annual Burden:* 800 hours.

*Estimated Average Burden Per Respondent:* 4 hours

*Frequency of Response:* One-time.

*Estimated Number of Respondents:* 200 respondents.

OMB Number: 2900-0080.

*Titles and Form Number:*

Authorization and Invoice for Medical and Hospital Services; VA Form 10-7078(R); Claim for Payment of Cost of Unauthorized Medical Services; VA Form 10-583(R); and Authority and Invoice for Travel by Ambulance or Other Hired Vehicle, VA Form 10-2511(R).

*Type of Information Collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Needs and Uses:*

a. VA Form 10-7078(R) is used to authorize expenditures from the medical care account and process payment of medical and hospital services provided by other than Federal health providers to VA beneficiaries.

b. VA Form 10-583(R) is used to collect information for determining the legal and medical eligibility of applicants for payment or reimbursement of the costs of unauthorized medical service obtained by a veteran.

c. VA Form 10-2511(R) is used to authorize expenditures from the beneficiary travel account and process payment for ambulance or other hired vehicular forms of transportation for eligible veterans to and from VA health care facilities for examination, treatment or care.

*Affected Public:* Business or other for-profit—Individual or households—Not-for-profit institutions—Federal Government—State, Local or Tribal Government.

*Estimated Annual Burden:* 29,671 total hours.

a. VA Form 10-7078(R)—8,400.

b. VA Form 10-583(R)—4,083.

c. VA Form 10-2511(R)—17,188.

*Estimated Average Burden Per Respondent:*

a. VA Form 10-7078(R)—2 minutes.

b. VA Form 10-583(R)—15 minutes.

c. VA Form 10-2511(R)—2 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 443,250 total respondents.

a. VA Form 10-7078(R)—252,000 respondents.

b. VA Form 10-583(R)—68,760 respondents.

c. VA Form 10-2511(R)—122,500 respondents.

OMB Number: 2900-0160.

*Title and Form Number:* Application for Furnishing Nursing Home Care to Beneficiaries of Veterans Affairs, VA Form 10-1170; State Home Report and State Month of Federal Aid Claimed, VA Form 10-5588; and Residential Care Home Program—Sponsor Application, VA Form 10-2407.

*Type of Information Collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Needs and Uses:*

a. VA Form 10-1170 is used by non Federal nursing homes to qualify to provide care to veterans patients.

b. VA Form 10-5588 is used by State Homes to request reimbursement for care provided to veteran patients.

c. VA Form 10-2407 is used by applicants to apply to VHA to become a sponsor in the Residential Care Home Program.

*Affected Public:* Business or other for-profit—Individuals or households—State, Local or Tribal Government.

*Estimated Annual Burden:* 315 total hours.

a. VA Form 10-1170—133 hours.

b. VA Form 10-5588—110 hours.

c. VA Form 10-2407—72 hours.

*Estimated Average Burden Per Respondent:*

a. VA Form 10-1170—20 minutes.

b. VA Form 10-5588—30 minutes.

c. VA Form 10-2407—5 minutes.

*Frequency of Response:*

a. VA Form 10-1170—Annually.

b. VA Form 10-5588—Quarterly.

c. VA Form 10-2407—Annually.

*Estimated Number of Respondents:* 1,315 total respondents.

a. VA Form 10-1170—400 respondents.

b. VA Form 10-5588—220 respondents.

c. VA Form 10-2407—860 respondents.

OMB Number: 2900-0219.

*Title and Form Number:* Application for CHAMPVA Benefits, VA Form 10-10D; CHAMPVA Claim Form, VA Form 10-7959A; Other Health Insurance

(OHI) Certification, VA Form 10-7959C; and Potential Liability Claim, VA Form 10-7959D

*Type of Information Collection:* Reinstatement, with change, of a previously approved collection for which approval has expired.

*Needs and Uses:*

a. VA Form 10-10D is used to determine eligibility of persons applying for medical care under CHAMPVA (Civilian Health and Medical Program of Veterans Affairs).

b. VA Form 10-7959A is used to adjudicate claims for CHAMPVA benefits.

c. VA Form 10-7959C is used to obtain annual other health insurance information and to correctly coordinate benefits among all liable parties.

d. VA Form 7959D is used in the recovery of costs associated with medical services related to an injury/illness caused by a third party.

*Affected Public:* Individuals or households—Business or other for-profit—Not-for-profit institutions.

*Estimated Annual Burden:* 30,033 total hours.

a. VA Form 10-10D—800 hours.

b. VA Form 10-7959A—20,000 hours.

c. VA Form 10-7959C—6,200 hours.

d. VA Form 10-7959D—3,033 hours.

*Estimated Average Burden Per Respondent:*

a. VA Form 10-10D—5 minutes.

b. VA Form 10-7959A—4 minutes.

c. VA Form 10-7959C—6 minutes.

d. VA Form 10-7959D—7 minutes.

*Frequency of Response:*

a. VA Form 10-10D—Annually.

b. VA Form 10-7959A—Annually.

c. VA Form 10-7959C—Annually.

d. VA Form 10-7959D—On occasion.

*Estimated Number of Respondents:* 397,600 total respondents.

a. VA Form 10-10D—9,600 respondents.

b. VA Form 10-7959A—300,000 respondents.

c. VA Form 10-7959C—62,000 respondents.

d. VA Form 10-7959D—26,000 respondents.

*Estimated Number of Respondents:* 10,000 respondents.

OMB Number: 2900-0427

*Title and Form Number:* Former POW Medical History, VA Form 10-0048.

*Type of Information Collection:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Needs and Uses:* The information is obtained from former POWs to assess the medical care needs of these veterans. The information will be used to determine the present and future

needs of POWs in the areas of disability compensation, health care and rehabilitation.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 750 hours.

*Estimated Average Burden Per*

*Respondent:* 1 hour

*Frequency of Response:* Non-recurring.

*Estimated Number of Respondents:* 750 respondents.

**ADDRESSES:** Copies of these submissions may be obtained from Ann Bickoff, Veterans Health Administration (161B4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565-7407.

Comments and recommendations concerning the submissions should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395-4650. DO NOT send requests for benefits to this address.

**DATES:** Comments on the information collections should be directed to the OMB Desk Officer on or before September 18, 1995.

**FOR FURTHER INFORMATION CONTACT:** Ron Taylor, VA Clearance Officer (045A4), (202) 565-4412.

Dated: August 10, 1995.

By direction of the Secretary:

**Donald L. Neilson,**

*Director, Information Management Service.*  
[FR Doc. 95-20568 Filed 8-17-95; 8:45 am]

BILLING CODE 8320-01-P

### Summary of Precedent Opinions of the General Counsel

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Notice.

**SUMMARY:** The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

**FOR FURTHER INFORMATION CONTACT:** Jane L. Lehman, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 273-6558.

**SUPPLEMENTARY INFORMATION:** VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

#### VAOPGCPREC 9-95

*Question Presented:* Must the value of a life estate in real property acquired by inheritance be included in determining annual income and net worth for improved-pension purposes?

*Held:* The value of a life estate in real property acquired by inheritance generally would not constitute income for improved-pension purposes. The value of a life estate acquired by inheritance would be considered in evaluating a claimant's estate for improved-pension purposes, except to the extent that the property serves as the claimant's dwelling. In determining whether a claimant's estate is a bar to entitlement to improved pension, a determination must be made on all the facts of the individual case as to whether it would be reasonable that a part of the claimant's estate be consumed for his or her maintenance. Effective Date: March 30, 1995

#### VAOPGCPREC 10-95

*Question Presented:* To what extent must the Board of Veterans' Appeals employ the nomenclature, diagnostic criteria, and adaptive-functioning scale of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Third Edition, in determining appeals involving issues of service connection and rating of mental disorders?

*Held:* Sections 4.126 and 4.132 of title 38, Code of Federal Regulations, which require that diagnoses of mental disorders conform to the American

Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (APA Manual), Third Edition (DSM-III) and establish the criteria for rating disabilities attributable to mental disorders based upon the psychiatric nomenclature and diagnostic criteria used in DSM-III, require that the Board of Veterans' Appeals (BVA) use the DSM-III nomenclature and diagnostic criteria until such time as the regulations are amended. The BVA is not precluded from making reference to medical reports which employ the adaptive-functioning assessment scales of either DSM-III or the fourth edition of the APA Manual (DSM-IV). However, the utility of such reports may be limited by differences between the terminology and disability levels used in those scales and those employed in 38 CFR § 4.132, the schedule for rating mental disorders.

Effective Date: March 31, 1995.

#### VAOPGCADV 11-95

*Question Presented:* May the Department employ a "fair market value" standard when setting rates for government quarters, in light of the Chief Financial Officers Act, which contemplates that agencies structure pricing in order to recoup all costs to the Government for providing the goods or services?

*Held:* OMB Circular A-45, which provides that the costs of quarters be set according to the rule of equivalence, or the fair market value, is based upon 5 U.S.C. § 5911; this section is an exception to the CFO Act requirement that charges for goods and services should reflect costs incurred by the Government.

Effective Date: May 23, 1995.

#### VAOPGCPREC 12-95

*Questions Presented:* a. Under the constructive-notice rule of *Bell v. Derwinski*, 2 Vet. App. 611 (1992), may the failure of an agency of original jurisdiction (AOJ) to consider pertinent Department of Veterans Affairs (VA) medical records in existence at the time of its prior final decision constitute clear and unmistakable error, even though such evidence was not actually in the record before the AOJ?

b. Would those circumstances constitute clear and unmistakable error only when the prior final decision of the agency of original jurisdiction was rendered after July 21, 1992, the date of the *Bell* decision?

c. If those circumstances would not constitute clear and unmistakable error as to prior final AOJ decisions rendered before July 21, 1992, would the effective date of an award of benefits in a later