

**List of Subjects in 33 CFR Part 110**

Anchorage grounds.

**Proposed Regulations**

For reasons set out in the preamble, the Coast Guard proposed to amend 33 CFR Part 110 as follows:

**PART 110—[AMENDED]**

1. The authority citation for Part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471, 1221 through 1236, 2030, 2035, 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. In § 110.155, add paragraph (c)(6) to read as follows:

**§ 110.155 Port of New York.**

\* \* \* \* \*

(c) \* \* \*

(6) *Anchorage No. 19-A*. An area located west of Hyde Park enclosed by the coordinates starting at 41°48'35" N, 073°57'00" W; to 41°48'35" N, 073°56'44" W; to 41°47'32" N, 073°56'50" W; to 41°47'32" N, 073°57'10" W; thence back to 41°48'35" N, 073°57'00" W.

(i) No vessel may anchor in Anchorage 19-A from December 16 to the last day of February without permission from the Captain of the Port, New York

(ii) [Reserved]

\* \* \* \* \*

Dated: June 3, 1998.

**James D. Garrison,**

*Captain, U.S. Coast Guard, Acting  
Commander, First Coast Guard District.*

[FR Doc. 98-18396 Filed 7-9-98; 8:45 am]

BILLING CODE 4910-15-M

**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 17**

RIN 2900-AJ18

**Enrollment—Provision of Hospital and Outpatient Care to Veterans**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend VA's medical regulations. The Veterans' Health Care Eligibility Reform Act of 1996 mandates that VA implement a national enrollment system to manage the delivery of healthcare services. Accordingly, the medical regulations are proposed to be amended to establish provisions consistent with this mandate. Starting October 1, 1998, most veterans must be enrolled in the VA healthcare system as a condition of

receiving VA hospital and outpatient care. Veterans would be allowed to apply to be enrolled at any time. They would be eligible to be enrolled based on funding availability and their priority status. In accordance with statutory provisions, the proposed rule also states that some categories of veterans would be eligible for VA hospital and outpatient care even if not enrolled. This document further proposes to establish a "medical benefits package" setting forth, with certain exceptions, the hospital and outpatient care that would be provided to enrolled veterans and certain other veterans.

**DATES:** Comments must be received on or before September 8, 1998.

**ADDRESSES:** Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN: 2900-AJ18." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Roscoe Butler, Health Administration Service, (10C3), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273-8302. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** This document proposes to amend VA's medical regulations at 38 CFR part 17. Public Law 104-262, the Veterans' Health Care Eligibility Reform Act of 1996, mandated that VA implement a national enrollment system to manage the delivery of healthcare services. Accordingly, the medical regulations are proposed to be amended to establish provisions consistent with this mandate. Starting October 1, 1998, most veterans must be enrolled in the VA healthcare system as a condition for receiving VA hospital and outpatient care. They would be allowed to apply to be enrolled at any time. In accordance with statutory provisions, the proposal also states that some categories of veterans would be eligible for VA hospital and outpatient care even if not enrolled. This document further proposes to establish a "medical benefits package" setting forth, with certain exceptions, the hospital and outpatient care that would be provided to enrolled veterans and certain other veterans.

**National Enrollment System (Proposed § 17.36)**

The proposed rule restates statutory provisions by announcing that certain veterans must be enrolled in the VA healthcare system as a condition for receiving VA hospital and outpatient care. Also, consistent with the mandate of Public Law 104-262, the proposed rule contains a mechanism for determining which categories of veterans are eligible to be enrolled. Moreover, the proposed rule includes procedures for applying for enrollment, continuation of enrollment, and disenrollment; and provides for notification to veterans of determinations regarding their enrollment status.

The proposed rule also contains provisions for automatically enrolling veterans who were enrolled prior to October 1, 1998, in the VA healthcare system under the trial VA voluntary enrollment program that began on October 1, 1997, if they are in a funded priority category as explained below. This would help avoid duplicate decisionmaking and paperwork since the trial VA voluntary enrollment program used essentially the same procedures for enrollment as those set forth in the proposed rule.

Consistent with the statutory mandate, the proposed rule provides that the Secretary will determine which categories of veterans are eligible to be enrolled based on the following order of priority:

(1) Veterans with a singular or combined rating of 50 percent or greater based on one or more service-connected disabilities or unemployability.

(2) Veterans with a singular or combined rating of 30 percent or 40 percent based on one or more service-connected disabilities.

(3) Veterans who are former prisoners of war; veterans with a singular or combined rating of 10 percent or 20 percent based on one or more service-connected disabilities; veterans who were discharged or released from active military service for a disability incurred or aggravated in the line of duty; veterans who receive disability compensation under 38 U.S.C. 1151; veterans whose entitlement to disability compensation is suspended pursuant to 38 U.S.C. 1151, but only to the extent that such veterans' continuing eligibility for hospital and outpatient care is provided for in the judgment or settlement described in 38 U.S.C. 1151; veterans whose entitlement to disability compensation is suspended because of the receipt of military retired pay; and veterans receiving compensation at the

10 percent rating level based on multiple noncompensable service-connected disabilities that clearly interfere with normal employability

(4) Veterans who receive increased pension based on their need for regular aid and attendance or by reason of being permanently housebound and other veterans who otherwise would be included in paragraphs (5) or (6) of this section but who are determined to be catastrophically disabled by the Chief of Staff (or equivalent clinical official) at the VA facility where they were examined.

(5) Veterans not covered by paragraphs (1) through (4) who are determined to be unable to defray the expenses of necessary care under 38 U.S.C. 1722(a).

(6) Veterans of the Mexican border period or of World War I; veterans solely seeking care for a disorder associated with exposure to a toxic substance or radiation or for a disorder associated with service in the Southwest Asia theater of operations during the Gulf War, as provided in 38 U.S.C. 1710(e); and veterans with 0 percent service-connected disabilities who are nevertheless compensated, including veterans receiving compensation for inactive tuberculosis.

(7) Veterans who agree to pay to the United States the applicable copayment determined under 38 U.S.C. 1710(f) and 1710(g).

We also propose to establish the following subcategories for priority category 7:

- (i) Noncompensable zero percent service-connected veterans;
- (ii) Catastrophically disabled veterans; and
- (iii) All other priority category 7 veterans.

In our view, this would provide an equitable system for further prioritizing the enrollment of priority category 7 veterans if VA were able to provide care for only a portion of priority category 7 veterans.

Priority category 4 includes veterans who are "catastrophically disabled." We have included a detailed definition of this term in proposed § 17.36(e). We believe this is consistent with the Congressional intent.

In connection with the Secretary's determination regarding which categories of veterans would be eligible for hospital and outpatient care, the proposed rule states that the Secretary will publish in the notice section of the **Federal Register** on or before October 1, 1998, a document announcing which categories of veterans are eligible to be enrolled. The proposed rule also states

that thereafter, it is anticipated that the Secretary would publish in the notice section of the **Federal Register** on or before August 1 of each year the determination of which categories of veterans are eligible to be enrolled. It is likely that the Secretary would have sufficient information by August 1 of each year to make an appropriate determination. However, because of the possibility that the initial determination may require modification, the proposed rule would allow the Secretary to revise the determination by publication in the notice section of the **Federal Register** as necessary at any time. The proposed rule also includes criteria for determining which priority categories will be eligible to be enrolled.

Veterans may appeal VA decisions regarding enrollment and disenrollment under the existing VA procedures, which include the right to appeal to the Board of Veterans' Appeals and the Court of Veterans Appeals.

#### **Enrollment Not Required for Certain Categories of Veterans (Proposed § 17.37)**

Consistent with the provisions of Public Law 104-262, the proposed rule states that certain categories of veterans, including veterans rated for service-connected disabilities at 50 percent or greater, are not required to be enrolled in the VA healthcare system as a condition for receiving VA care.

Under Public Law 104-262, the list of veterans not required to be enrolled includes veterans ineligible to be enrolled but who need care based on "compelling medical reasons." Based on our view of the statutory intent, the proposed rule indicates that this covers those cases when it is necessary to complete a course of treatment started when the veteran was enrolled in the VA healthcare system.

Further, we note that we do not believe that the authority for providing hospital and outpatient care for "compelling medical reasons" was intended to cover the provision of care as a humanitarian service in emergency cases. VA has separate and long-standing authority to provide care to individuals such as non-enrolled veterans in medical emergencies subject to charges set by VA.

#### **Medical Benefits Package (Proposed § 17.38)**

This document also proposes to set forth provisions explaining what care would and would not be provided to veterans enrolled in the VA healthcare system. The Secretary has authority to provide healthcare as determined to be medically needed. In our view,

medically needed constitutes care that is determined by appropriate healthcare professionals to be needed to promote, preserve, or restore the health of the individual and to be in accord with generally accepted standards of medical practice. The care included in the proposed "medical benefits package" is intended to meet these criteria.

The proposed regulations also explain that a veteran may receive certain types of VA care not included in the "medical benefits package" if authorized by statute or other sections of 38 CFR (e.g., humanitarian emergency care for which the individual will be billed, compensation and pension examinations, dental care, domiciliary care, nursing home care, readjustment counseling, care as part of a VA-approved research project, seeing-eye or guide dogs, sexual trauma counseling and treatment, special registry examinations).

#### **Technical Changes**

The proposed rule also proposes to make a number of technical amendments to the medical regulations for purposes of consistency.

#### **OMB**

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

#### **Paperwork Reduction Act of 1995**

OMB has determined that proposed 38 CFR 17.36 would contain collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). Accordingly, under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to OMB for its review of the collections of information.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the proposed collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand-delivered to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AJ18."

*Title:* Initial Application for Health Benefits.

*Summary of collection of information:* Under the provisions of proposed § 17.36(d)(1), a veteran who wishes to be enrolled must apply by submitting a VA Form 10-10EZ to a VA medical facility. Veterans applying based on inclusion in categories 1, 2, 3, 4, 6, and 7 do not need to complete section II, but must complete the rest of the form. Veterans applying based on inclusion in priority category 5 must complete the entire form. VA Form 10-10EZ is set forth in full at proposed § 17.36(f).

*Description of the need for information and proposed use of information:* This information would be needed to determine whether a veteran would be eligible to be enrolled in the VA healthcare system and, consequently, whether the veteran would be eligible for VA hospital and outpatient care.

*Description of likely respondents:* Veterans wishing to be enrolled in the VA healthcare system for the first time in order to receive VA hospital and outpatient care.

*Estimated number of respondents:* 1,000,000.

*Estimated frequency of responses:* 1. *Estimated total annual reporting and recordkeeping burden:* 333,333 hours.

*Estimated annual burden per collection:* 20 minutes.

*Title:* Yearly Re-application for Health Benefits.

*Summary of collection of information:* Under the provisions of proposed § 17.36(d)(4)(iii), veterans enrolled based on inclusion in priority category 5 would be mailed a Form 10-10EZ on a yearly basis. They would be requested to complete the form and return the form to the address on the return envelope. VA Form 10-10EZ is set forth in full at proposed § 17.36(f).

*Description of the need for information and proposed use of information:* This information would be needed to determine whether a veteran would be eligible to continue to be enrolled in the VA healthcare system, and, consequently, whether the veteran would be eligible to continue to receive VA hospital and outpatient care.

*Description of likely respondents:* Veterans in priority category 5 wishing to continue to be enrolled in the VA healthcare system in order to receive VA hospital and outpatient care.

*Estimated number of respondents:* 1,372,766.

*Estimated frequency of responses:* 1. *Estimated total annual reporting and recordkeeping burden:* 343,192 hours.

*Estimated annual burden per collection:* 15 minutes.

*Title:* Voluntary disenrollment.

*Summary of collection of information:* Under the provisions of proposed § 17.36(d)(4)(i), a veteran wishing to disenroll and forgo VA hospital and outpatient care would submit to a VA medical center a signed document stating that the veteran no longer wishes to be enrolled.

*Description of the need for information and proposed use of information:* This information is needed to determine the identity of those veterans wishing to disenroll and forgo VA hospital and outpatient care. This will help VA determine how to allocate available funding for hospital and outpatient care.

*Description of likely respondents:* Veterans no longer wishing to receive VA hospital and outpatient care.

*Estimated number of respondents:* 100.

*Estimated frequency of responses:* 1. *Estimated total annual reporting and recordkeeping burden:* 8.3 hours.

*Estimated annual burden per collection:* 5 minutes.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;

- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;

- Enhancing the quality, usefulness, and clarity of the information to be collected; and

- Minimizing the burden of the collections of information on those who are to respond, including responses through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed rule.

#### Regulatory Flexibility Act

The Secretary hereby certifies that this proposed 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. This proposed rule would affect only individuals. Accordingly, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analysis requirements of §§ 603 and 604.

The Catalog of Federal domestic assistance numbers for the programs affected by this rule are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.025.

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

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and record-keeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: May 12, 1998.

**Togo D. West, Jr.,**

Secretary.

For the reasons set out in the preamble, 38 CFR part 17 is proposed to be amended as set forth below:

#### PART 17—MEDICAL

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

**Authority:** 38 U.S.C. 501, 1721 unless otherwise noted.

#### § 17.34 [Amended]

12. The first sentence of § 17.34 is amended by removing "When an application" and adding, in its place, "Subject to the provisions of §§ 17.36 through 17.38, when an application".

2. An undesignated center heading and § 17.36 are added to read as follows:

#### Enrollment Provisions and Medical Benefits Package

##### § 17.36 Enrollment—provision of hospital and outpatient care to veterans.

(a) *Enrollment requirement for veterans.* (1) Except as otherwise provided in § 17.37, a veteran must be enrolled in the VA healthcare system as a condition for receiving VA hospital and outpatient care.

**Note to paragraph (a)(1):** A veteran may apply to be enrolled at any time. (See § 17.36(d)(1).)

(2) Except as provided in paragraph (a)(3) of this section, a veteran enrolled under this section is eligible for VA hospital and outpatient care as provided in the "medical benefits package" set forth in § 17.38.

(3) A veteran enrolled based on having a disorder associated with exposure to a toxic substance or radiation, or having a disorder associated with service in the Southwest Asia theater of operations during the Gulf War, as provided in 38 U.S.C. 1710(e), is eligible for VA hospital and outpatient care provided in the "medical benefits package" set forth in § 17.38 for the disorder.

(b) *Categories of veterans eligible to be enrolled.* The Secretary will determine which categories of veterans are eligible to be enrolled based on the following order of priority:

(1) Veterans with a singular or combined rating of 50 percent or greater based on one or more service-connected disabilities or unemployability.

(2) Veterans with a singular or combined rating of 30 percent or 40 percent based on one or more service-connected disabilities.

(3) Veterans who are former prisoners of war; veterans with a singular or combined rating of 10 percent or 20 percent based on one or more service-connected disabilities; veterans who were discharged or released from active military service for a disability incurred or aggravated in the line of duty; veterans who receive disability compensation under 38 U.S.C. 1151; veterans whose entitlement to disability compensation is suspended pursuant to 38 U.S.C. 1151, but only to the extent that such veterans' continuing eligibility for hospital and outpatient care is provided for in the judgment or settlement described in 38 U.S.C. 1151; veterans whose entitlement to disability compensation is suspended because of the receipt of military retired pay; and veterans receiving compensation at the 10 percent rating level based on multiple noncompensable service-connected disabilities that clearly interfere with normal employability.

(4) Veterans who receive increased pension based on their need for regular aid and attendance or by reason of being permanently housebound and other veterans who otherwise would be included in paragraphs (5) or (6) of this section but who are determined to be catastrophically disabled by the Chief of Staff (or equivalent clinical official) at the VA facility where they were examined.

(5) Veterans not covered by paragraphs (1) through (4) of this section who are determined to be unable to

defray the expenses of necessary care under 38 U.S.C. 1722(a).

(6) Veterans of the Mexican border period or of World War I; veterans solely seeking care for a disorder associated with exposure to a toxic substance or radiation or for a disorder associated with service in the Southwest Asia theater of operations during the Gulf War, as provided in 38 U.S.C. 1710(e); and veterans with 0 percent service-connected disabilities who are nevertheless compensated, including veterans receiving compensation for inactive tuberculosis.

(7) Veterans who agree to pay to the United States the applicable copayment determined under 38 U.S.C. 1710(f) and 1710(g). This category is further prioritized into the following subcategories:

(i) Noncompensable zero percent service-connected veterans;

(ii) Catastrophically disabled veterans; and

(iii) All other priority category 7 veterans.

(c) **Federal Register notification of eligible enrollees.** The Secretary will publish in the notice section of the **Federal Register** on or before October 1, 1998, a document announcing which categories of veterans are eligible to be enrolled. Thereafter, it is anticipated that the Secretary will publish in the notice section of the **Federal Register** on or before August 1 of each year a document announcing which categories of veterans are eligible to be enrolled. As necessary, the Secretary at any time may revise the determination by publication in the notice section of the **Federal Register**. A **Federal Register** document published under this paragraph must specify the total amount of appropriated funds and other revenue projected to be available for VA hospital and outpatient care for veterans eligible to be enrolled, specify the average amount of cost projected for a veteran in each priority category, and specify the projected utilization of VA hospital and outpatient care by veterans eligible to be enrolled for each priority category (based on experience from past years). The determination should include consideration of relevant internal and external factors, e.g., economic changes, changes in medical practices. Consistent with these criteria, the Secretary will determine which categories of veterans are eligible to be enrolled based on the order of priority specified in paragraph (b) of this section.

(d) **Enrollment and disenrollment process—(1) Application for enrollment.** A veteran may apply to be enrolled in the VA healthcare system at any time. A veteran who wishes to be enrolled

must apply by submitting a VA Form 10-10EZ to a VA medical facility. Veterans applying based on inclusion in priority categories 1, 2, 3, 4, 6, and 7 do not need to complete section II, but must complete the rest of the form. Veterans applying based on inclusion in priority category 5 must complete the entire form. VA Form 10-10EZ is set forth in paragraph (f) of this section and is available from VA medical facilities.

**Note to paragraph (d)(1):** To remain enrolled based on inclusion in priority category 5, a veteran annually must return to VA information on a VA Form 10-10EZ as provided in paragraph (d)(4)(iii) of this section and otherwise meet the requirements for enrollment.

(2) **Action on application.** Upon receipt of a completed VA Form 10-10EZ, a VA network or facility director will accept a veteran as an enrollee upon determining that the veteran is in a priority category eligible to be enrolled as announced in the applicable **Federal Register** notice. Upon determining that a veteran is not in a priority category eligible to be enrolled, the VA network or facility director will inform the applicant that the applicant is ineligible to be enrolled.

(3) **Automatic enrollment.** Notwithstanding other provisions of this section, veterans who were notified by VA letter that they were enrolled in the VA healthcare system under the trial VA enrollment program prior to October 1, 1998, automatically will be enrolled in the VA healthcare system under this section if determined by a VA network or facility director that the veteran is in a priority category eligible to be enrolled as announced in the applicable **Federal Register** notice. Upon determining that a veteran is not in a priority category eligible to be enrolled, the VA network or facility director will inform the veteran that the veteran is ineligible to be enrolled.

(4) **Disenrollment.** A veteran enrolled under paragraph (d)(2) or (d)(3) of this section will be disenrolled only if:

(i) The veteran submits to a VA medical center a signed document stating that the veteran no longer wishes to be enrolled;

(ii) A VA network or facility director determines that the veteran is no longer in a priority category eligible to be enrolled, as announced in the applicable **Federal Register** notice; or

(iii) A VA network or facility director determines that the veteran has been enrolled based on inclusion in priority category 5; determines that the veteran was sent by mail a VA Form 10-10EZ; and determines that the veteran failed to return the completed form to the address on the return envelope within

60 days from receipt of the form. VA Form 10-10EZ is set forth in paragraph (f) of this section.

(5) *Notification of enrollment status.* Notice of a decision by a VA network or facility director regarding enrollment status will be provided to the affected veteran by letter and will contain the reasons for the decision. The decision will be based on all information available to the decisionmaker, including the information contained in VA Form 10-10EZ.

(e) *Catastrophically disabled.* For purposes of this section, catastrophically disabled means to have a permanent severely disabling injury, disorder, or disease that compromises the ability to carry out the activities of daily living to such a degree that the individual requires personal or mechanical assistance to leave home or bed or requires constant supervision to avoid physical harm to self or others. This definition is met if an individual has been found by the Chief of Staff (or equivalent clinical official) at the VA facility where the individual was examined to have a condition specified in paragraph (e)(1) of this section or to meet one of the conditions specified in paragraph (e)(2) of this section.

(1) Quadriplegia and quadriplegia (ICD-9 Code 344.0x), paraplegia (ICD-9

Code 344.1), blindness (ICD-9 Code 369.4), unspecified hemiplegia (ICD-9 Code 342.90), persistent vegetative state (ICD-9 Code 780.03), or a condition resulting from two of the following procedures (ICD-9 Code 84.x) provided the two procedures were not on the same limb:

- (i) Amputation through hand (procedure code 84.03);
- (ii) Disarticulation of wrist (procedure code 84.04);
- (iii) Amputation through forearm (procedure code 84.05);
- (iv) Disarticulation of elbow (procedure code 84.06);
- (v) Amputation through humerus (procedure code 84.07);
- (vi) Shoulder disarticulation (procedure code 84.08);
- (vii) Forequarter amputation (procedure code 84.09);
- (viii) Lower limb amputation not otherwise specified (procedure code 84.10);
- (ix) Amputation of toe (only if accompanied by V49.71 code for amputated great toe) (procedure code 84.11);
- (x) Amputation through foot (procedure code 84.12);
- (xi) Disarticulation of ankle (procedure code 84.13);

- (xii) Amputation through malleoli (procedure code 84.14);
- (xiii) Other amputation below knee (procedure code 84.15);
- (xiv) Disarticulation of knee (procedure code 84.16);
- (xv) Above knee amputation (procedure code 84.17);
- (xvi) Disarticulation of hip (procedure code 84.18); and
- (xvii) Hindquarter amputation (procedure code 84.19).

(2)(i) Dependent in 4 or more Activities of Daily Living (eating, dressing, bathing, toileting, transferring, incontinence of bowel and/or bladder), with at least 4 of the dependencies being permanent, using the Katz scale.

(ii) A score of 10 or lower using the Folstein Mini-Mental State Examination.

(iii) A score of 14 or higher on the Activities of Daily Living Index using Resource Utilization Group III.

(iv) A score of 2 or lower on at least 4 of the 13 motor items using the Functional Independence Measure.

(v) A score of 30 or lower using the Global Assessment of Functioning.

(f) *VA Form 10-10EZ.* [insert actual photocopy of VA Form 10-10EZ]

BILLING CODE 8320-01-P



Department of Veterans Affairs

**APPLICATION FOR HEALTH BENEFITS**

**SECTION I - GENERAL INFORMATION**

1A. TYPE OF BENEFIT(S) APPLIED FOR <i>(You may check more than one)</i>					
<input type="checkbox"/> HEALTH SERVICES		<input type="checkbox"/> NURSING HOME		<input type="checkbox"/> DOMICILIARY	
				<input type="checkbox"/> DENTAL	
				<input type="checkbox"/> CHAMPVA	
1B. IF APPLYING FOR HEALTH SERVICES, WHICH VA MEDICAL CENTER OR OUTPATIENT CLINIC DO YOU PREFER					
2. VETERAN'S NAME <i>(Last, First, MI)</i>			3. OTHER NAMES USED		4. GENDER <i>(Check one)</i>
					<input type="checkbox"/> M <input type="checkbox"/> F
5. SOCIAL SECURITY NUMBER		6. CLAIM NUMBER		7. DATE OF BIRTH <i>(mm/dd/yyyy)</i>	
				8. RELIGION	
9A. CURRENT MAILING ADDRESS <i>(Street)</i>			9B. CITY		9C. STATE
					9D. ZIP
9E. COUNTY		10. HOME TELEPHONE NUMBER		11. WORK TELEPHONE NUMBER	
		<i>( ) ( )</i>		<i>( ) ( )</i>	
12. CURRENT MARITAL STATUS <i>(Check one)</i>					
<input type="checkbox"/> MARRIED		<input type="checkbox"/> NEVER MARRIED		<input type="checkbox"/> SEPARATED	
				<input type="checkbox"/> WIDOWED	
				<input type="checkbox"/> DIVORCED	
				<input type="checkbox"/> UNKNOWN	
13A. LAST BRANCH OF SERVICE		13B. LAST ENTRY DATE	13C. LAST DISCHARGE DATE	13D. DISCHARGE TYPE	13E. MILITARY SERVICE NUMBER
<b>14. CIRCLE YES OR NO</b>					
A. ARE YOU A FORMER PRISONER OF WAR		YES	NO	H. DO YOU HAVE A MILITARY DENTAL INJURY	
				YES	
				NO	
B. DO YOU HAVE A VA SERVICE-CONNECTED RATING		YES	NO	I. DO YOU HAVE A SPINAL CORD INJURY	
				YES	
				NO	
IF YES, WHAT IS YOUR RATED PERCENTAGE			%	J. ARE YOU ELIGIBLE FOR MEDICAID	
				YES	
				NO	
C. ARE YOU RECEIVING A VA PENSION		YES	NO	K. ARE YOU ENROLLED IN MEDICARE HOSPITAL INSURANCE PART A	
				YES	
				NO	
D. ARE YOU RETIRED FROM THE MILITARY		YES	NO	L. ARE YOU ENROLLED IN MEDICARE HOSPITAL INSURANCE PART B	
				YES	
				NO	
D1. WAS YOUR RETIREMENT THE RESULT OF A DISABILITY		YES	NO	L1. EFFECTIVE DATE	
D2. WERE YOU REGULARLY RETIRED - (20+ yrs.)		YES	NO	M. MEDICARE CLAIM NUMBER	
E. WERE YOU EXPOSED TO TOXINS IN THE GULF WAR		YES	NO	N. NAME EXACTLY AS IT APPEARS ON YOUR MEDICARE CARD	
F. WERE YOU EXPOSED TO AGENT ORANGE		YES	NO		
G. WERE YOU EXPOSED TO RADIATION		YES	NO		
15A. VETERAN'S EMPLOYMENT STATUS <i>(Check one)</i>			15B. COMPANY NAME, ADDRESS AND TELEPHONE NUMBER		
<input type="checkbox"/> NOT EMPLOYED					
<input type="checkbox"/> EMPLOYED					
<i>If employed or retired, complete item</i>			<i>Date of retirement</i>		
<input type="checkbox"/> RETIRED					
16A. SPOUSE'S EMPLOYMENT STATUS <i>(Check one)</i>			16B. COMPANY NAME, ADDRESS AND TELEPHONE NUMBER		
<input type="checkbox"/> NOT EMPLOYED					
<input type="checkbox"/> EMPLOYED					
<i>If employed or retired, complete item 16B</i>			<i>Date of retirement</i>		
<input type="checkbox"/> RETIRED					
17A. VETERAN'S HEALTH INSURANCE COMPANY			18A. SPOUSE'S HEALTH INSURANCE COMPANY		
			18B. NAME OF POLICY HOLDER		
17C. POLICY NUMBER		17D. GROUP CODE		18C. POLICY NUMBER	
				18D. GROUP CODE	
19A. NAME, ADDRESS AND RELATIONSHIP OF NEXT OF KIN			19B. NEXT OF KIN'S HOME TELEPHONE NUMBER		
			<i>( ) ( )</i>		
			19C. NEXT OF KIN'S WORK TELEPHONE NUMBER		
			<i>( ) ( )</i>		
20A. NAME, ADDRESS AND RELATIONSHIP OF EMERGENCY CONTACT			20B. EMERGENCY CONTACT'S HOME TELEPHONE NUMBER		
			<i>( ) ( )</i>		
			20C. EMERGENCY CONTACT'S WORK TELEPHONE NUMBER		
			<i>( ) ( )</i>		
21. I DESIGNATE THE FOLLOWING INDIVIDUAL TO RECEIVE POSSESSION OF ALL MY PERSONAL PROPERTY LEFT ON THE PREMISES UNDER VA CONTROL AFTER I LEAVE SUCH PLACE OR AT THE TIME OF MY DEATH. <i>(Check one) (This does not constitute a will or transfer of title.)</i>					
<input type="checkbox"/> EMERGENCY CONTACT			<input type="checkbox"/> NEXT OF KIN		
22A. IS NEED FOR CARE DUE TO ON THE JOB INJURY <i>(Check one)</i>			22B. IS NEED FOR CARE DUE TO ACCIDENT <i>(Check one)</i>		
<input type="checkbox"/> YES			<input type="checkbox"/> YES		
<input type="checkbox"/> YES			<input type="checkbox"/> YES		

<b>APPLICATION FOR HEALTH BENEFITS, Continued</b>	VETERAN'S NAME	SOCIAL SECURITY NUMBER	
<b>SECTION II - FINANCIAL ASSESSMENT</b>			
<b>IIA - FINANCIAL DISCLOSURE</b>			
<p>You are not required to provide the financial information requested in this section. However, current law may require VA to consider your household financial situation to determine your eligibility for enrollment and/or cost-free care of your nonservice-connected (NSC) conditions. If you are an NSC veteran who is not an EX-POW or drawing VA pension benefits, you may be eligible for enrollment if your annual household income (or combined income and net worth) exceeds the established threshold for enrollment and you agree to pay VA co-payments for that care unless treatment is for your service-connected conditions. See Section III - Consent and Signature.</p> <p><input type="checkbox"/> <b>YES</b>, I WILL PROVIDE SPECIFIC INCOME AND/OR ASSET INFORMATION TO HAVE ELIGIBILITY FOR CARE DETERMINED. Complete all sections below that apply to you. Use information from last calendar year. Sign and date the application.</p> <p><input type="checkbox"/> <b>NO</b>, I DO NOT WISH TO PROVIDE MY DETAILED FINANCIAL INFORMATION. By checking no, and signing below, you are agreeing to pay the applicable VA co-payment and be assigned into priority category 7.</p>			
<b>IIB - DEPENDENT INFORMATION (Use a separate sheet for additional dependents)</b>			
1A. SPOUSE'S NAME (Last, First, MI)	1B. CHILD'S NAME (Last, First, MI)		
2A. SPOUSE'S SOCIAL SECURITY NUMBER	2B. CHILD'S SOCIAL SECURITY NUMBER	3. CHILD'S DATE OF BIRTH (mm/dd/yyyy)	
4A. SPOUSE'S ADDRESS AND TELEPHONE NUMBER (Street, City, State, ZIP)	4B. SPOUSE'S DATE OF BIRTH (mm/dd/yyyy)		
5A. SPOUSE'S MAIDEN NAME	5B. CHILD'S RELATIONSHIP TO YOU (Circle one) Son      Daughter      Stepson      Stepdaughter		
6A. DATE OF MARRIAGE (mm/dd/yyyy)	6B. DATE CHILD BECAME YOUR DEPENDENT (mm/dd/yyyy)		
7. IF YOUR SPOUSE OR DEPENDENT CHILD DID NOT LIVE WITH YOU LAST YEAR, ENTER THE AMOUNT YOU CONTRIBUTED TO THEIR SUPPORT SPOUSE \$      CHILD \$	8. EXPENSES PAID BY YOUR DEPENDENT CHILD FOR COLLEGE, VOCATIONAL REHABILITATION OR TRAINING (tuition, books, materials, etc.) \$		
<b>IIC - GROSS ANNUAL INCOME OF VETERAN, SPOUSE AND DEPENDENT CHILDREN</b>			
	<b>VETERAN</b>	<b>SPOUSE</b>	<b>CHILDREN</b>
1. WHAT WAS YOUR GROSS ANNUAL INCOME FROM EMPLOYMENT (wages, bonuses, tips, etc.), AS WELL AS INCOME FROM YOUR FARM, RANCH, PROPERTY OR BUSINESS	\$	\$	\$
2. LIST OTHER INCOME AMOUNTS (Social Security, compensation, pension, interest, dividends) Exclude welfare.	\$	\$	\$
3. IF ANY OF YOUR GROSS ANNUAL INCOME WAS OBTAINED FROM YOUR FARM, RANCH, PROPERTY OR BUSINESS, REFER TO PAGE 2, SECTION IIC OF THE INSTRUCTIONS			
<b>IID - DEDUCTIBLE EXPENSES</b>			
1. NON-REIMBURSED MEDICAL EXPENSES PAID BY YOU OR YOUR SPOUSE (payments for doctors, dentists, drugs, Medicare, health insurance, hospital and nursing home)	\$		
2. AMOUNT YOU PAID LAST CALENDAR YEAR FOR FUNERAL AND BURIAL EXPENSES FOR YOUR DECEASED SPOUSE OR DEPENDENT CHILD (Also enter spouse or child's information in Section III.)	\$		
3. AMOUNT YOU PAID LAST CALENDAR YEAR FOR YOUR COLLEGE OR VOCATIONAL EDUCATIONAL EXPENSES (tuition, books, fees, materials, etc.) DO NOT LIST YOUR DEPENDENTS EDUCATIONAL EXPENSES.	\$		
<b>III - NET WORTH</b>			
	<b>VETERAN</b>	<b>SPOUSE</b>	
1. CASH, AMOUNT IN BANK ACCOUNTS (Checking and savings accounts, certificates of deposit, individual retirement accounts, etc.)	\$	\$	
2. MARKET VALUE OF LAND AND BUILDINGS MINUS MORTGAGES AND LIENS. Do not count your primary home. Include value of farm, ranch, or business assets.	\$	\$	
3. STOCKS AND BONDS AND VALUE OF OTHER PROPERTY OR ASSETS (art, rare coins, etc.) MINUS THE AMOUNT YOU OWE ON THESE ITEMS. Exclude household effects and family vehicles.	\$	\$	
<b>SECTION III - CONSENT AND SIGNATURE</b>			
<p><b>CO-PAYMENT NOTICE:</b> If you are a nonservice-connected veteran or a 0% service-connected veteran not due monthly VA compensation and your household income or combined income and net worth exceeds the established threshold, you may be eligible for enrollment only if you agree to pay VA co-payments for treatment of your NSC conditions. By signing this application you are agreeing to pay the applicable VA co-payment if required by law.</p>			
I CERTIFY THE FOREGOING STATEMENT(S) ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.			DATE (mm/dd/yyyy)
<p>● <b>SIGN HERE</b> (Signature of applicant or applicant's representative)</p>			
<b>THE LAW PROVIDES SEVERE PENALTIES FOR WILLFUL SUBMISSION OF FALSE INFORMATION.</b>			

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APR 1998

(Authority: 38 U.S.C. 101, 501, 1701, 1705, 1710, 1721, 1722)

3. A new § 17.37 is added to read as follows:

**§ 17.37 Enrollment not required—provision of hospital and outpatient care to veterans.**

Even if not enrolled in the VA healthcare system:

(a) A veteran rated for service-connected disabilities at 50 percent or greater will receive VA hospital and outpatient care provided for in the “medical benefits package” set forth in § 17.38.

(b) A veteran who has a service-connected disability will receive VA hospital and outpatient care provided for in the “medical benefits package” set forth in § 17.38 for that service-connected disability.

(c) A veteran who was discharged or released from active military service for a disability incurred or aggravated in the line of duty will receive VA hospital and outpatient care provided for in the “medical benefits package” set forth in § 17.38 for that disability for the 12-month period following discharge or release.

(d) When there is a compelling medical need to complete a course of VA treatment started when the veteran was enrolled in the VA healthcare system, a veteran will receive that treatment.

(e) Subject to the provisions of § 21.240, a veteran participating in VA’s vocational rehabilitation program described in §§ 21.1 through 21.430 will receive VA hospital and outpatient care provided for in the “medical benefits package” set forth in § 17.38.

(f) A veteran may receive VA hospital and outpatient care based on factors other than veteran status (e.g., a veteran who is a private-hospital patient and is referred to VA for a diagnostic test by that hospital under a sharing contract; a veteran who is a VA employee and is examined to determine physical or mental fitness to perform official duties; a Department of Defense retiree under a sharing agreement).

(g) For care not provided within a State, a veteran may receive VA hospital and outpatient care provided for in the “medical benefits package” set forth in § 17.38 if authorized under the provisions of 38 U.S.C. 1724 and 38 CFR 17.35.

(h) Commonwealth Army veterans and new Philippine Scouts may receive hospital and outpatient care provided for in the “medical benefits package” set forth in § 17.38 if authorized under the provisions of 38 U.S.C. 1734 and 1735.

(i) A veteran may receive certain types of VA hospital and outpatient care not included in the “medical benefits package” set forth in § 17.38 if authorized by statute or other sections of 38 CFR (e.g., humanitarian emergency care for which the individual will be billed, compensation and pension examinations, dental care, domiciliary care, nursing home care, readjustment counseling, care as part of a VA-approved research project, seeing-eye or guide dogs, sexual trauma counseling and treatment, special registry examinations).

(Authority: 38 U.S.C. 101, 501, 1701, 1705, 1710, 1721, 1722)

4. A new § 17.38 is added to read as follows:

**§ 17.38 Medical benefits package.**

(a) Subject to paragraphs (b) and (c) of this section, the following hospital and outpatient care constitutes the “medical benefits package” (basic care and preventive care):

(1) Basic care.

(i) Outpatient medical, surgical, and mental healthcare, including care for substance abuse.

(ii) Inpatient hospital, medical, surgical, and mental healthcare, including care for substance abuse.

(iii) Prescription drugs, including over-the-counter drugs and medical and surgical supplies available under the VA national formulary system.

(iv) Emergency care in VA facilities; and emergency care in non-VA facilities in accordance with sharing contracts or if authorized by §§ 17.52(a)(3), 17.53, 17.54, 17.120–132.

(v) Bereavement counseling as authorized in § 17.98.

(vi) Comprehensive rehabilitative services other than vocational services provided under 38 U.S.C. chapter 31.

(vii) Consultation, professional counseling, training, and mental health services for the members of the immediate family or legal guardian of the veteran or the individual in whose household the veteran certifies an intention to live, if needed to treat:

(A) The service-connected disability of a veteran; or

(B) The nonservice-connected disability of a veteran where these services were first given during the veteran’s hospitalization and continuing them is essential to permit the veteran’s release from inpatient care.

(viii) Durable medical equipment and prosthetic and orthotic devices, including eyeglasses and hearing aids as authorized under § 17.149.

(ix) Home health services authorized under 38 U.S.C. 1717 and 1720C.

(x) Reconstructive (plastic) surgery required as a result of disease or trauma, but not including cosmetic surgery that is not medically necessary.

(xi) Respite, hospice, and palliative care.

(xii) Payment of travel and travel expenses for veterans eligible under § 17.143 if authorized by that section.

(2) Preventive care, as defined in 38 U.S.C. 1701(9), which includes:

(i) Periodic medical exams.

(ii) Health education, including nutrition education.

(iii) Maintenance of drug-use profiles, drug monitoring, and drug use education.

(iv) Mental health and substance abuse preventive services.

(v) Immunizations against infectious disease.

(vi) Prevention of musculoskeletal deformity or other gradually developing disabilities of a metabolic or degenerative nature.

(vii) Genetic counseling concerning inheritance of genetically determined diseases.

(viii) Routine vision testing and eye-care services.

(ix) Periodic reexamination of members of high-risk groups for selected diseases and for functional decline of sensory organs, and the services to treat these diseases and functional declines.

(b) *Provision of the “medical benefits package”.* Care referred to in the “medical benefits package” will be provided to individuals only if it is determined by appropriate healthcare professionals that the care is needed to promote, preserve, or restore the health of the individual and is in accord with generally accepted standards of medical practice.

(1) *Promote health.* Care is deemed to promote health if the care will enhance the quality of life or daily functional level of the veteran, identify a predisposition for development of a condition or early onset of disease which can be partly or totally ameliorated by monitoring or early diagnosis and treatment, and prevent future disease.

(2) *Preserve health.* Care is deemed to preserve health if the care will maintain the current quality of life or daily functional level of the veteran, prevent the progression of disease, cure disease, or extend life span.

(3) *Restoring health.* Care is deemed to restore health if the care will restore the quality of life or daily functional level that has been lost due to illness or injury.

(c) In addition to the care specifically excluded from the “medical benefits package” under paragraphs (a) and (b) of



this section, the "medical benefits package" does not include the following:

- (1) Abortions and abortion counseling.
- (2) Drugs, biologicals, and medical devices not approved by the Food and Drug Administration unless the treating medical facility is conducting formal clinical trials under an Investigational Device Exemption (IDE) or an Investigational New Drug (IND) application, or the drugs, biologicals, or medical devices are prescribed under a compassionate use exemption.
- (3) Gender alterations.
- (4) Hospital and outpatient care for a veteran who is either a patient or inmate in an institution of another government agency if that agency has a duty to give the care or services.
- (5) Infertility services.
- (6) Membership in spas and health clubs.
- (7) Pregnancy and delivery.
- (8) Reproductive sterilization, unless medically necessary.
- (9) Surgery to reverse voluntary sterilization.
- (10) Surgical implantation of penile prostheses.

(Authority: 38 U.S.C. 101, 501, 1701, 1705, 1710, 1721, 1722)

#### § 17.43 [Amended]

5-6. In § 17.43, paragraph (a) is removed and paragraphs (b) through (e) are redesignated as paragraphs (a) through (d), respectively.

#### § 17.47 [Amended]

7. In § 17.47, paragraph (h) is removed; paragraphs (i) through (l) are redesignated as paragraphs (h) through (k), respectively; and newly redesignated paragraph (h) is amended by removing "hospital or" and by removing "or hospital care in a Federal hospital under agreement,".

#### § 17.93 [Amended]

8. In § 17.93, paragraph (a)(2) is amended by removing "Medical services" and adding, in its place, "Subject to the provisions of §§ 17.36 through 17.38, medical services".

#### § 17.99 [Removed]

9. Section 17.99 is removed.

#### § 17.100 [Amended]

10. In § 17.100, the third sentence is amended by removing "a new application is filed, and".

[FR Doc. 98-18302 Filed 7-9-98; 8:45 am]

BILLING CODE 8320-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[OH 114-1b; FRL-6123-2]

#### Approval and Promulgation of Maintenance Plan Revision; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

**SUMMARY:** The United States Environmental Protection Agency (EPA) is proposing to approve a March 13, 1998, request from Ohio, for a State Implementation Plan maintenance plan revision for the Columbus ozone maintenance area. The maintenance plan revision establishes an out year of 2010 for the area's emissions budget. The maintenance plan revision also allocates to the 2010 mobile source emissions budget a portion of the area's safety margin. The 2010 mobile source emissions budget will be used for transportation conformity purposes. The safety margin is the difference between the attainment inventory level of the total emissions and the projected levels of the total emissions in the final year of the maintenance plan.

In the final rules section of this **Federal Register**, EPA is approving the State's requests as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comment on the rule. Should the Agency receive such comment, it will publish a notice informing the public that the direct final rule did not take effect and such public comment received will be addressed in a subsequent final rule based on this proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. EPA does not plan to institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

**DATES:** Written comments on this proposed action must be received by August 10, 1998.

**ADDRESSES:** Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency,

Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

#### FOR FURTHER INFORMATION CONTACT:

Scott Hamilton, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-4775.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final document which is located in the Rules section of this **Federal Register**. Copies of the requests are available for inspection at the following address: (Please contact Scott Hamilton at (312) 353-4775 before visiting the Region 5 office.) USEPA Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Nitrogen oxides, Transportation conformity.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: July 1, 1998.

**David A. Ullrich,**

*Acting Regional Administrator.*

[FR Doc. 98-18421 Filed 7-9-98; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-300680; FRL-6016-1]

### 40 CFR Part 180

RIN 2070-AB18

#### Food and Food By-Products Used as a Pesticide; Proposed Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

**SUMMARY:** EPA proposes to establish an exemption from the requirement of a tolerance for residues of any edible food commodity (except for peanuts, tree nuts, milk, soybean, eggs, fish, crustacea, and wheat) used as a pesticide, when applied in accordance with good agricultural practices, in or on all food commodities. Any edible food commodity used as a pesticide under this exemption must not be "adulterated food" as defined in FFDCA section 402. 21 U.S.C. 342. The exemption from the requirement of a tolerance is being proposed by the Agency on its own initiative, since the