

Replacement

(a) Within 18 months after the effective date of this AD: Replace the rudder pedal

pushrod fasteners for both the captain's and first officer's pedal assemblies with new, improved fasteners that use self-locking, castellated nuts and cotter pins through the

bolts for nut retention, per the applicable Boeing service bulletin listed in the following table:

TABLE 2.—APPLICABLE SERVICE BULLETINS

| Model | Service bulletin | Revision level | Date |
|----------------------------------------|-------------------|----------------|-----------------|
| 737-100, -200, -300, -400, and -500 .. | 737-27A1214 | 1 | July 1, 1999. |
| 747 | 747-27A2373 | Original | June 24, 1999. |
| 757 | 757-27A0129 | Original | March 25, 1999. |
| 767 | 767-27A0159 | Original | June 10, 1999. |
| 777 | 777-27A0030 | Original | April 1, 1999. |

Note 2: Replacement actions that include replacing the rudder pedal pushrod fasteners for both the captain's and first officer's pedal assemblies with new, improved fasteners, which use self-locking, castellated nuts and cotter pins through the bolts for nut retention, accomplished before the effective date of this amendment, per Boeing Alert Service Bulletin 737-27A1214, dated April 8, 1999, is considered acceptable for compliance with the applicable action specified in this amendment.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permit

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on April 13, 2001.

Donald L. Riggins,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 01-9765 Filed 4-19-01; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AK25

Written and Oral Information or Statements Affecting Entitlement to Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) adjudication regulations to eliminate the requirement that beneficiaries advise VA of changes affecting their entitlement to benefits *in writing*. This will allow VA to increase or decrease benefit payments based on information submitted orally or by e-mail, facsimile, or other electronic means and make it easier for beneficiaries to submit information that they must provide. We further propose to amend our notice requirements to allow VA to reduce or terminate benefit payments based on information reported orally without issuing a 60-day advance notice, but only under certain conditions that would ensure that claimants are not deprived of benefits without adequate notice. This would reduce the amounts of any overpayments created by these actions.

DATES: Comments must be received on or before June 19, 2001.

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; or fax comments to (202) 273-9289; or e-mail comments to OGCRegulation@mail.va.gov. Comments should indicate that they are submitted in response to "RIN 2900-AK25." All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Donald England, Chief, Policy and Regulations Staff (211A), Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273-7210 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: For compensation, pension and dependency and indemnity compensation (DIC) benefits administered by VA, individual

factors such as income, marital status, the beneficiary's number of dependents, may affect the amount of the benefit that he or she receives or they may affect his or her right to receive the benefit. Beneficiaries must report changes in these factors to VA in a timely manner; certain current VA regulations require that they report such changes in writing. However, there are other means by which beneficiaries could report such changes, including telephone, facsimile, or e-mail, that would allow beneficiaries to advise VA of the changes more quickly and thereby enable VA to adjust benefit payments more quickly. Furthermore, the office of the VA Inspector General has recommended that we eliminate the requirement that such reports be in writing in order to reduce the amounts of the overpayments created when beneficiaries report changes that require VA to reduce or terminate their benefits. For these reasons, we propose to amend VA's adjudication regulations at 38 CFR 3.204(a)(1), 3.256(a) and 3.277(b) to delete the requirement that beneficiaries report such changes in writing.

If VA is to adopt these changes, clearly we must also develop safeguards, both for beneficiaries and for VA, to ensure that VA adjusts benefit payments based only on information provided by the beneficiary (or his or her fiduciary) and that the information provided is documented for VA records. We propose to address these issues by adding a new regulation at 38 CFR 3.217. We propose to specify in paragraph (a) of that new section, that unless specifically provided otherwise elsewhere in the regulations, the submission of information that affects entitlement via e-mail, facsimile, or other written electronic means will satisfy a requirement that such information be submitted in writing. This paragraph will also include a note to clarify that the new section applies only to how such information is submitted; it does not relieve the claimant of any other evidence

requirements, such as a requirement to use a specific form, to provide specific information or evidence, or to provide a certified statement or a signature. Although VA cannot currently accept electronic signatures, we are exploring technology that may allow us to do so in the future.

We propose to authorize VA to take action affecting entitlement to benefits based on oral or written information provided by a beneficiary or his or her fiduciary in paragraph (b) of new section 3.217. When an individual submits information in writing or by facsimile or e-mail, clearly there is, or in the case of e-mail VA may clearly create, a written document detailing the information provided and the date VA received it. However, because there is no such automatic recording of information that is provided orally, we propose that VA may not take action based on oral information or statements unless the VA employee receiving the information takes specific actions during the conversation in which the information or statement is provided. We propose to require the VA employee to take the following actions:

(1) Identify himself or herself as a VA employee who is authorized to receive the information or statement;

(2) Verify the identity of the provider as either the beneficiary or his or her fiduciary by obtaining specific information about the veteran or beneficiary, such as Social Security number, date of birth, branch and/or dates of military service, or other information, that can be verified from the beneficiary's VA records; and

(3) Inform the provider that VA will use the information or statement to calculate benefit amounts.

We also propose to require the VA employee receiving the information to document all of the information or the statement received, as well as the steps taken to verify the identity of the provider, in the beneficiary's VA records. Just as importantly, we propose to require the VA employee to document in the beneficiary's VA records that he or she informed the provider that VA would use the information or statement to calculate benefit amounts.

VA regulations at 38 CFR 3.103(b) generally prohibit VA from reducing or terminating an award of compensation, pension or DIC without first notifying the beneficiary of the adverse action and allowing him or her 60 days in which to submit evidence showing that VA should not take the adverse action. There are specific exceptions to that rule in which VA may issue a notice of the adverse action at the same time it

takes the action rather than wait 60 days before taking the action. One of those exceptions is when an adverse action is based solely on *written*, factual, unambiguous information regarding income, net worth, dependency or marital status provided to VA by the beneficiary or his or her fiduciary with knowledge or notice that VA will use the information to calculate benefits. We propose to revise § 3.103(b) to allow VA to issue notice at the same time it takes adverse action, in lieu of the otherwise required 60-day advance notice, based on written or *oral* information as described above if the VA employee receiving the information met all of the requirements set out in proposed § 3.217. The proposed rule also states that VA will restore retroactively benefits that were reduced or terminated based on oral information or statements if within 30 days of the date of the notification of adverse action the beneficiary or his or her fiduciary asserts that the adverse action was based upon information or statements that were inaccurate or upon information that was not provided by the beneficiary or his or her fiduciary. This will not preclude VA from taking subsequent action that adversely affects benefits.

Many beneficiaries report these changes to VA by telephone because it is more convenient or in hopes of keeping VA from issuing payments to which they know they are not entitled. They are frustrated when VA advises them that it will issue at least two additional benefit payments unless the beneficiary reports the same information in writing. Adopting the proposed change to § 3.103(b) in conjunction with the proposed changes to §§ 3.204, 3.256 and 3.277 and the addition of § 3.217, will address the concerns of both beneficiaries, by allowing VA to take action on reported changes in a more timely and customer friendly fashion, and the Office of the Inspector General by reducing the amounts of overpayments created because of adverse actions. We believe the proposed provisions contain sufficient added safeguards to ensure that the information and statements used for decision making are accurate and that we accept oral information or statements only under conditions that meet due process requirements.

We also propose to make nonsubstantive changes for purposes of clarity.

Paperwork Reduction Act

Proposals regarding 38 CFR 3.256, and 3.277 would contain changes to 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-AK25."

Title: Eligibility Verification Reporting.

Summary of collection of information:

Under the provisions of proposed §§ 3.256 and 3.277 the modes for submitting evidence of changes in factors affecting entitlement to pension or dependency and indemnity compensation benefits would be expanded to include oral or electronic submissions. The current OMB information collection approval applies only to written, not oral or electronic, submissions of factual and unambiguous information that the beneficiary or his or her fiduciary is required to provide to VA to meet the reporting requirements of §§ 3.256 and 3.277. A slight reduction in the current burden estimate is anticipated with likely respondents' use of these more customer-friendly modes of submitting evidence.

Description of the need for information and proposed use of information: This information would be needed for VA to determine whether adjustments in the rate of payment are necessary.

Description of likely respondents: Veterans and their dependents who receive compensation, pension or dependency and indemnity compensation benefits.

Estimated number of respondents: 372,209.

Estimated frequency of responses: 1.

Estimated total annual reporting and recordkeeping burden: 31,017 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.

Executive Order 12866

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

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will 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. This amendment would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 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, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: February 15, 2001.

Anthony J. Principi,
Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is proposed to be amended as set forth below:

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 3.103 is amended by:

A. Revising paragraph (b)(2) heading and revising paragraphs (b)(3) introductory text and (b)(3)(i).

B. Removing “is” from paragraphs (b)(3)(ii), (b)(3)(iv), (b)(3)(v) and (b)(3)(vi).

C. Removing the comma at the end of paragraphs (b)(3)(ii), (b)(3)(iii) and (b)(3)(iv), and adding, in its place, a period.

D. Removing “, or” at the end of paragraph (b)(3)(v) and adding, in its place, a period.

E. Adding paragraph (b)(4).

F. Revising the authority citation at the end of the section.

The addition and revisions read as follows:

§ 3.103 Procedural due process and appellate rights.

* * * * *

(b) * * *

(2) *Advance notice and opportunity for hearing.* * * *

(3) *Exceptions.* In lieu of advance notice and opportunity for a hearing, VA will send a written notice to the beneficiary or his or her fiduciary at the same time it takes an adverse action under the following circumstances:

(i) An adverse action based solely on factual and unambiguous information or statements as to income, net worth, or dependency or marital status that the beneficiary or his or her fiduciary provided to VA in writing or orally (under the procedures set forth in § 3.217(b)), with knowledge or notice that such information would be used to calculate benefit amounts.

* * * * *

(4) *Restoration of benefits.* VA will restore retroactively benefits that were reduced, terminated, or otherwise adversely affected based on oral information or statements if within 30 days of the date on which VA issues the notification of adverse action the beneficiary or his or her fiduciary asserts that the adverse action was based

upon information or statements that were inaccurate or upon information that was not provided by the beneficiary or his or her fiduciary. This will not preclude VA from taking subsequent action that adversely affects benefits.

(Authority: 38 U.S.C. 501, 1115, 1506, 5104)

3. In § 3.204(a)(1), the word “written” is removed.

4. A new § 3.217 is added preceding the undesignated centerheading “Dependency, Income and Estate”:

§ 3.217 Submission of statements or information affecting entitlement to benefits.

(a) For purposes of this part, unless specifically provided otherwise, the submission of information or a statement that affects entitlement to benefits by e-mail, facsimile, or other written electronic means, will satisfy a requirement or authorization that the statement or information be submitted in writing.

Note to Paragraph (a): Section 3.217(a) merely concerns the submission of information or a statement in writing. Other requirements specified in this part, such as a requirement to use a specific form, to provide specific information, to provide a signature, or to provide a certified statement, must still be met.

(b) For purposes of this part, unless specifically provided otherwise, VA may take action affecting entitlement to benefits based on oral or written information or statements provided to VA by a beneficiary or his or her fiduciary. However, VA may not take action based on oral information or statements unless the VA employee receiving the information meets the following conditions:

(1) During the conversation in which the information or statement is provided, the VA employee:

(i) Identifies himself or herself as a VA employee who is authorized to receive the information or statement (these are VA employees authorized to take actions under §§ 2.3 or 3.100 of this chapter);

(ii) Verifies the identity of the provider as either the beneficiary or his or her fiduciary by obtaining specific information about the beneficiary that can be verified from the beneficiary's VA records, such as Social Security number, date of birth, branch of military service, dates of military service, or other information; and

(iii) Informs the provider that the information or statement will be used for the purpose of calculating benefit amounts; and

(2) During or following the conversation in which the information

or statement is provided, the VA employee documents in the beneficiary's VA records the specific information or statement provided, the date such information or statement was provided, the identity of the provider, the steps taken to verify the identity of the provider as being either the beneficiary or his or her fiduciary, and that he or she informed the provider that the information would be used for the purpose of calculating benefit amounts.

(Authority: 38 U.S.C. 501, 1115, 1506, 5104)

5. Section § 3.256(a) introductory text is amended by removing "in writing".

6. Section § 3.277(b) introductory text is amended by removing "in writing".

[FR Doc. 01-9643 Filed 4-19-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[Region 7 Tracking No. 0124-1124(a); FRL-6968-4]

Approval and Promulgation of Implementation Plans and Redesignation of Areas for Air Quality Planning Purposes; State of Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision and request for redesignation submitted by the state of Nebraska for the purpose of redesignating the lead nonattainment area in eastern Douglas County, Nebraska, to attainment of the national ambient air quality standards (NAAQS). In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision and promulgating an attainment designation as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no relevant adverse comments to this action. A detailed rationale for the action is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant 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 action. EPA will not institute a second comment period on this action.

Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by May 21, 2001.

ADDRESSES: Comments may be mailed to Kim Johnson, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Kim Johnson at (913) 551-7975.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: April 11, 2001.

William A. Spratlin,

Acting Regional Administrator., Region 7.

[FR Doc. 01-9740 Filed 4-19-01; 8:45 am]

BILLING CODE 6560-50-U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01-804; MM Docket No. 01-80, RM-10089; MM Docket No. 01-81; RM-10090]

Radio Broadcasting Services; Eagle Lake, TX; Montana City, MT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes two allotments. The Commission requests comments on a petition filed by Stargazer Broadcasting, Inc., proposing the allotment of Channel 237C3 at Eagle Lake, Texas, as the community's first local aural transmission service. Channel 237C3 can be allotted to Eagle Lake in compliance with the Commission's minimum distance separation requirement with a site restriction of 16.4 kilometers (10.2 miles) west to avoid short-spacings to the licensed sites of Station KVIC(FM), Channel 236C3, Victoria, Texas, and Station KIKK-FM, Channel 239C, Houston, Texas. The coordinates for Channel 237C3 at Eagle Lake are 29-35-15 North Latitude and 96-30-03 West Longitude. The Commission requests comments on a petition filed by Montana Magic Investments, Inc., proposing the allotment of Channel 293A at Montana City, Montana, as the community's first local aural transmission service. Channel 293A can be allotted to Montana City in compliance with the Commission's minimum distance separation requirements with a site restriction of

3.8 kilometers (2.4 miles) north to avoid a short-spacing to the licensed site of Station KWYS-FM, Channel 293C, Island Park, Idaho. The coordinates for Channel 293A at Montana City are 46-33-43 North Latitude and 111-57-39 West Longitude. Since Montana City is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been requested.

DATES: Comments must be filed on or before May 21, 2001, and reply comments on or before June 5, 2001.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: David P. Garland, President, Stargazer Broadcasting, Inc., P.O. Box 519, Woodville, Texas 75979 (Petitioner); Roger Lonnquist, Montana Magic Investments, Inc., P.O. Box 4218, Helena, Montana 59604 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01-80 and MM Docket No. 01-81, adopted March 21, 2001, and released March 30, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.
For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows: